

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MARCH 7, 2006
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Pro Tem Young at 10:10 a.m. Council President Pro Tem Young recessed the meeting at 11:03 a.m. to convene the Redevelopment Agency. Council President Pro Tem Young reconvened the regular meeting at 11:05 a.m. with Council Member Madaffer and Council President Peters not present. Council President Pro Tem Young recessed the meeting at 11:09 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Pro Tem Young at 2:04 p.m. with Council President Peters and Council Members Madaffer and Hueso, not present. Council President Pro Tem Young recessed the meeting at 3:00 p.m. to reconvene the Redevelopment Agency. Council President Pro Tem Young reconvened the meeting at 3:01 p.m. with Council President Peters and Council Member Madaffer not present. The meeting was adjourned by Council President Pro Tem Young at 3:01 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-not present-Excused by R-301311;no reason given
- (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-not present-Excused by R-301313;no reason given
- (8) Council Member Hueso-present

Clerk-Maland (ek/er)

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-not present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Bernadine King commented on the public transit system in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:21 a.m.)

PUBLIC COMMENT-2:

Hud Collins commented on the pension system in the City of San Diego, and the City Attorney.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:22 a.m. – 10:24 a.m.)

PUBLIC COMMENT-3:

Glenn Mac Nary commented on the plans for the New School of Architecture in the City of San Diego.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-4:

Don Stillwell wished to thank Council Member Frye for attending the Metropolitan Transit System meetings.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:30 a.m.)

PUBLIC COMMENT-5:

Charles Stout commented on the Rules of Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:32 a.m.)

PUBLIC COMMENT-6:

Ron Boshun commented on the subject of the actions of the City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

PUBLIC COMMENT-7:

Millie Strodman commented on Mayor Jerry Sanders.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:38 a.m.)

PUBLIC COMMENT-8:

James Hartline commented on the subject of youth protection in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:41 a.m.)

PUBLIC COMMENT-9:

Stephanie Hopping commented on Planned Parenthood in the City of San Diego.

FILE LOCATION: AGENDA

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

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Atkins requested, due to its expertise, that the Clerk's Office take the lead in working with her office and Council President Peters' office in scheduling a venue for this year's Council Budget Hearings rather than having the Consultant's Office do the scheduling. Miss Atkins stated that she needs enough time to give the public adequate notice of the meetings. City Clerk Liz Maland stated that the Clerk's Office would be glad to assist and that a check-list for scheduling an off-site meeting had been submitted to Miss Atkins' office as a starting point for organizing the different tasks.

Council Member Frye wished to express the desire of her office to assist in any way possible to find a suitable place and time for the Budget Meetings.

Jeffrey Gattas stated that the Mayor's Office is more than willing to take the lead in working with Council Member Atkins' office to organize the Budget Meetings and work to meet Miss Atkins' needs and the public's needs regarding these meetings.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:45 a.m. – 10:50 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.



ITEM-30: Energy Efficiency Awareness Week.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-687) ADOPTED AS RESOLUTION R-301273

Reaffirming the City of San Diego's partnerships with the U.S. Department of Energy, Environmental Protection Agency, U.S. Green Building Council, California Flex Your Power, and San Diego Gas & Electric for the purpose of creating a sustainable future that supports environmental quality, and quality of life for all; and

Proclaiming the week of March 6 through March 10, 2006, to be "Energy Efficiency Awareness Week" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:11 a.m. – 10:18 a.m.)

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

* ITEM-100: Construction Change Orders No. 4 and No. 4A with Scheidel Contracting and Engineering Inc. for the Tennyson Street and Sterne Street Re-Construction.

(Peninsula Community Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-742) ADOPTED AS RESOLUTION R-301274

Authorizing the Mayor, or his designee, to approve Construction Change Orders No. 4 and No. 4A with Scheidel Contracting, for the total amount of \$207,923.

STAFF SUPPORTING INFORMATION:

This project was created to provide for the replacement of pavement between Chatsworth Street and Willow Street, due to pavement damage from several previous sewer, water, and other utility projects. A contract for this work was awarded to Scheidel Contracting and Engineering. Subsequently, Council approved formation of an undergrounding district that would also impact these streets. A bid alternative provision in the original contract was used to add the undergrounding of overhead utilities to the roadway reconstruction project in order to prevent additional pavement damage in the future. Subsequently, SDG&E requested several changes to their original design as a result of field conditions encountered during construction which resulted in additional construction costs which are addressed by this action. Since this work is for facilities owned by SDG&E and were needed to prevent additional damage to the pavement installed, the additional costs will be provided by SDG&E as part of the 20A Program. Staff does not foresee any viable alternatives to the recommended action.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$3,065,000. Of this amount, \$1,800,000 has been previously authorized from sewer and water funds for the pavement reconstruction for the utility damage. The remaining funds in the amount of \$1,265,000 are currently available from Fund 30101, CIP-37-028.0, Undergrounding of City Utilities, which is sufficient to cover all undergrounding costs including those funds necessary for this action. These undergrounding funds are provided by SDG&E, as part of the 20A program and no additional City funds are required for this action.

PREVIOUS COUNCIL ACTIONS:

January 7, 2003 (RR-297507) - Authorized the contract for pavement replacement.
September 7, 2004 (RR-299609) - Authorized the creation of the utility undergrounding district.
February 28, 2005 (RR-300146) - Authorized the addition of the undergrounding work to the contract and acceptance of the SDG&E reimbursement for the undergrounding costs.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The original project to replace the damaged street pavement was initiated by the community and Council District 2. Discussions with the various community groups were conducted at that time. Since the overall scope of the project has not changed and the need for the current action arose during construction, no additional public outreach efforts were conducted.

Boekamp/Haas

Aud. Cert. 2600593.

Staff: Frank Gaines - (619) 533-3771
Jeremy A. Jung - Deputy City Attorney

FILE LOCATION: CONT-Scheidel Contracting, Inc., W.O. 187421

COUNCIL ACTION: (Time duration: 10:53 a.m. – 10:54 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-not present, Hueso-yea.

- * ITEM-101: Storm Water Pollution Prevention Funds and Convention Center Expansion Funds for Existing Professional Services Agreements with Metropolitan Wastewater Department.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-685 Cor. Copy) ADOPTED AS RESOLUTION R-301275

Adding Storm Water Pollution Prevention Fund No. 100 (General Fund) as an authorized funding source to support the requirements of the Storm Water Pollution Prevention Program for the following agreements managed by the Metropolitan Wastewater Department: Engineering Services 2005-2008; Biological Services 2005-2008; Environmental Services 2003-2006; and Construction/Program Management 2002-2007;

Authorizing the expenditure of funds from Storm Water Pollution Prevention Fund No. 100 to support the Stormwater Pollution Prevention Program for the above agreements on an as-needed basis, contingent on the City Auditor and Comptroller first furnishing one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit in the City Treasury;

Adding Convention Center Expansion Fund No. 102211 as an authorized funding source for the following agreement to support the requirements of the Convention Center Expansion/Dewatering Compliance by the Metropolitan Wastewater Department's Environmental Monitoring & Technical Services: Engineering Services 2005-2008;

Authorizing the expenditure of funds from Convention Center Expansion Fund No. 102211 to support the Environmental Monitoring & Technical Services' efforts regarding the Convention Center Expansion/Dewatering Project for the Engineering Services 2005-2008 agreement on an as-needed basis, contingent on the City Auditor and Comptroller first furnishing one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit in the City Treasury;

Declaring this activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378(b)(4), because this activity is a governmental fiscal activity, which is not committed to a specific project that may have a significant impact on the environment.

STAFF SUPPORTING INFORMATION:

The following four City Council-authorized Services Agreements provide professional services for Engineering, Biological, Environmental, and Construction Management/Program Management, for existing MWW facilities, collection systems, pump stations, pipeline alignments, canyon access, and treatment plants:

- 1) April 11, 2005, "Professional Engineering Services, 2005-2008" with MWH Americas, Inc. via Resolution R-300309 (attachment A) valued at \$3,000,000 Not-to-Exceed (NTE).
- 2) May 23, 2005, "Professional Biological Services, 2005-2008" with Dudek & Associates via Resolution R-300462 (attachment B) valued at \$1,000,000 Not-To-Exceed.
- 3) May 6, 2003, "Professional Environmental Services, 2003-2006" with David Evans & Associates via Resolution R-297916 (attachment C) valued at \$750,000 Not-to-Exceed.
- 4) September 24, 2002, "Professional Construction/Program Management Services, 2002-2005", with Earth Tech via Resolution R-297080 (attachment D) valued at \$15,000,000 Not-to-Exceed. Additionally, the contract duration was extended to September 24, 2007 via City Manager's Action C-13463 (attachment E).

The four aforementioned contracts are funded from MWWD Funds 41506, 41508, and 41509.

On April 22, 2004, P. Lamont Ewell, City Manager, issued a memorandum outlining a number of organizational changes. As a result of this directive, the Storm Water Pollution Prevention Division (SWPPD) was transferred to MWWD. In order for MWWD to support SWPPD program requirements under the four Services Agreements, SWPPD Fund 100 (General Fund) must be added to the approved funding sources for said Agreements. Furthermore, Fund 102211 (Convention Center Expansion/CCE Fund) must be added to the Engineering Services 2005-2008 Agreement for the EM & TS laboratory to conduct Convention Center Dewatering Compliance requirements supporting the compliance schedule requested by the San Diego Regional Water Quality Control Board (SDRWQCB). These actions will not increase the total Not-to-Exceed values of the MWWD Services Agreements.

The balance of Sewer Fund NTE funding, assigned to the Agreements, will be reduced by an amount equal to any Fund 100 or Fund 102211 expenditures issued. The Agreements remain unchanged. Work will be authorized on a Task Order basis.

FISCAL IMPACT:

Funds are available for MWWD requirements in Sewer Revenue Funds 41506, 41508 and 41509, and Fund 102211 for EM & TS for CCE Dewatering Compliance. Additionally, for SWPPD requirements in Fund 100.

Haas/Tulloch/WDP

Staff: Downs Prior - (858) 292-6316
Thomas C. Zeleny - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:53 a.m. – 10:54 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-not present, Hueso-yea.

- * ITEM-102: Two actions related to Agreement with Brown, Vence and Associates, Inc. for Landfill Gas to Energy Study at South Chollas Landfill and Arizona Street Landfill and Grant Application to North American Development Bank.

(See memorandum from Larry Gardner dated 11/1/2005. Balboa Park and Chollas View Community Areas. Districts 3 and 4.)

(Continued from the meeting of February 21, 2006, Item 105, at the request of Councilmember Madaffer, for further review.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2006-647) ADOPTED AS RESOLUTION R-301276

Authorizing the Mayor, or his duly designee, for and on behalf of the City, to execute a consulting agreement with Brown, Vence & Associates, Inc. for an energy feasibility study at the South Chollas Landfill and the Arizona Street Landfill, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$100,000, for the above agreement, to be expended as follows: \$50,000, from Fund No. 30244, Dept. 30244, CIP-32-022.0 and \$50,000, from Fund No. 30244, Dept. 30244, CIP-32-018.0;

Declaring this activity is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15306, because this activity is for the purposes of information collection and other resource evaluation activities which do not result in a serious or major disturbance to an environmental resource.

Subitem-B: (R-2006-648) ADOPTED AS RESOLUTION R-301277

Authorizing the Mayor, or his duly designee, for and on behalf of the City, to apply for, accept, appropriate, and expend funds from two matching grants provided by the North American Development Bank, and to execute all documents in connection with such grant funds, and to use such funds for the sole purpose of performing a feasibility study for landfill gas energy development at the South Chollas Landfill and the Arizona Street Landfill;

Authorizing the City Auditor and Comptroller to reimburse Fund No. 30244, Dept. 30244, for any City expenditure from such grant funds;

Declaring this activity is categorically exempt from the California Environmental Quality Act Pursuant to CEQA Guidelines Section 15306, because the above activity is for the purposes of information collection and other resource evaluation activities which do not result in a serious or major disturbance to an environmental resource.

STAFF SUPPORTING INFORMATION:

The Environmental Services Department, Energy Conservation and Management Division is looking to procure a consulting contract with Brown, Vence and Associates, Inc. (BVA) to study the Chollas and Arizona Street Landfills and determine the best use for landfill gas to energy potential. The BVA study will assess the costs and benefits of continuing the current landfill gas, (LFG) destruction and mitigation control project and on-site energy recovery or shipment of LFG offsite for generation of electricity at a nearby facility where the electrical demand equals or exceeds the energy production potential of the landfill site. The study will update estimates of LFG production from 1998, provide an evaluation of different technologies, securing self generation incentive including use of Section 29 or 45 landfill tax credits and prepare a final report and Action Plan.

BVA provides a unique mix of experience, expertise and qualifications that will reap benefits for the City in the undertaking of his project. BVA is a full service solid waste and energy engineering and consulting firm with extensive experience in evaluating, designing and implementing landfill gas to energy projects in California, Mexico, and internationally. BVA staff had hands-on experience with the South Chollas Landfill during its operating life. They have conducted several studies funded by the North American Development Bank (NAD Bank) and are experienced in meeting its technical and administrative requirements and gaining additional funding opportunities. The NAD Bank is an international financial institution established and capitalized in equal parts by the United States and Mexico for the purpose of financing environmental infrastructure projects, and has established the Institutional Development Cooperation Program (IDP) whose purpose is to enhance the financial capabilities of communities and utilities preparing environmental infrastructure projects that promote a clean, healthy environment for the citizens of the region.

As a part the BVA Agreement, the City of San Diego will receive two \$25,000 matching grants from NAD Bank to the City for purposes of conducting feasibility studies regarding the development of landfill gas to energy projects at two closed City landfills the Arizona Street Landfill and the South Chollas Landfill. In order for the City of San Diego to receive grant funds from NAD Bank, the City will need to execute an agreement with NAD Bank on or before March 17, 2006, the expiration of the grant funding from NAD Bank.

Additionally, the completion of these studies are critical to the development of these landfill gas to energy projects in the next 18 months. These projects were recently submitted to SDG&E as a part of a "Request for Offer". If accepted by SDG&E, the City in a partnership with SDG&E will develop these sites to produce renewable energy and allow the City to generate revenue from the sell of electricity to SDG&E.

This study is in accordance with the City's 50 megawatt renewable energy goal which promotes the installation of renewable energy on public and private buildings throughout the City by 2013 including, but not limited to, renewable energy from landfill gas generation.

The City will fund the entire study in an amount not to exceed \$100,000, and will be reimbursed by NAD Bank for half the cost of the study up to \$50,000, whichever amount is less. Funds are available in FY2006 budget from the Arizona Landfill Gas Utilization Project, CIP-32-022.0 and from the South Chollas Landfill Gas Upgrade Project, CIP-32-018.0.

Heap/JH

Aud. Certs. 2600534/2600535.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:53 a.m. – 10:54 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-not present, Hueso-yea.

* ITEM-103: Agreement with Latham & Watkins for the Purposes of Insurance Coverage Analysis.

(Mission Bay Community Area. District 6.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-695 Cor. Copy) ADOPTED AS RESOLUTION R-301278

Authorizing the Mayor to execute, for and on behalf of the City, an agreement with Latham & Watkins for the purposes of insurance coverage analysis, for an amount not to exceed \$50,000, as relates to litigation entitled De Anza Cove Homeowners Association, Inc. v. City of San Diego, et al., San Diego Superior Court Case No. GIC821191.

SUPPORTING INFORMATION:

The City Attorney has contacted Kris Wilkes, Esq., Latham & Watkins for legal services in connection with the ongoing litigation related to De Anza Harbor Resort's transition from a privately-operated mobile home to City operated park (Park). The litigation is entitled De Anza Cove Homeowners Association, Inc. v. City of San Diego, et al., San Diego Superior Court Case No. GIC821191. The services provided by Latham & Watkins include the analysis of insurance coverage by the previous lessee and co-defendant DHRG, analysis of insurance coverage by the City's excess carriers and coverage and indemnification analysis of potential pending contracts with a new management company at the Park.

This action seeks an amount not to exceed \$50,000 for retention of Latham & Watkins in the matter of De Anza Harbor and Resort litigation for purposes of insurance coverage analysis.

Severson

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:53 a.m. – 10:54 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-not present, Hueso-yea.

- * ITEM-104: Application for Grant Funds from the California Integrated Waste Management Board to Implement the LEA's Waste Tire Enforcement Program.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-683) ADOPTED AS RESOLUTION R-301279

Authorizing the Mayor, or his designee, to take all necessary actions to secure funds from the California Integrated Waste Management Board to implement the LEA's waste tire enforcement program, including but not limited to applications, grant agreements, amendments, and payment requests that may be necessary to carry out and administer the City's obligations, responsibilities and duties under the terms and conditions of the grant; and

Authorizing the Mayor, or his designee, to accept and expend the grant funds, if awarded, for the purposes set forth in this resolution; and

Authorizing the City Auditor and Comptroller to create a separate fund for the grant monies.

STAFF SUPPORTING INFORMATION:

The LEA is requesting the non-competitive grant funds to continue the ongoing inspection, surveillance, enforcement programs and other activities and projects designed to prevent illicit tire disposal and to assure a high level of compliance with applicable state laws and regulations. This grant will allow the LEA to continue its effective waste tire enforcement program, to provide regulatory guidance to waste tire businesses and, when necessary, to take enforcement action to remedy threats to public health and safety and the environment.

The LEA has provided a model waste tire enforcement program that has been recognized and duplicated throughout the state. Also, the grant has been a springboard for obtaining other grant monies for cleaning up waste tires and trash in the Tijuana River Valley and for coordinating broader environmental issues with federal, state, and local agencies in the United States and Mexico.

FISCAL CONSIDERATIONS:

Not a matching grant. Up to \$157,744 may be available for reimbursement from the CIWMB Waste Tire Fund. The program is funded through the state's collection of a \$1.75 fee on the purchase of new tires. The LEA does NOT collect fees from stakeholders to support this program.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

As a result of previous council approvals, the LEA has received this grant annually and has been implementing it since 1999.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The program also includes outreach to the regulated community through the development and distribution of literature and public presentations to stakeholder groups.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

The program includes annual or biannual inspections of new and used tire dealers, vehicle fleets, automotive dismantlers, car dealerships and rental agencies, and registered waste tire haulers as well as response to public complaints and agency referrals.

Waring/Halbert

Staff: Vicky Gallagher – (619) 533-3695
Julie Teel – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:53 a.m. – 10:54 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-not present, Hueso-yea.

- * ITEM-105: Grant Application to the State of California, Clean Air, Safe Parks, and Coastal Protection Act of 2002, Roberti-Z'berg-Harris Per Capita Block Grant Program for the Swanson Swimming Pool Programs.

(University City Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-740) ADOPTED AS RESOLUTION R-301280

Authorizing the Mayor, or designee, to make an application to the State of California for \$72,719 in Clean Air, Safe Parks, and Coastal Protection Act of 2002, Roberti-Z'berg-Harris Per Capita Block Grant Program funds (the Grant Funds) for the Swanson Swimming Pool Programs (the Project);

Authorizing the Mayor, or designee, to take all necessary actions to secure Grant Funds from the Clean Air, Safe Parks, and Coastal Protection Act of 2002, Roberti-Z'berg-Harris Per Capita Block Grant Program for the Project;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend the Grant Funds if the grant is secured;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend cash donation funds for the Project (the Donation Funds);

Authorizing the City Auditor and Comptroller to establish a special interest-bearing account for the Grant Funds and the Donation Funds upon receipt of a fully executed Grant Agreement;

Finding that this Project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility this activity will result in a direct or reasonably foreseeable indirect physical change in the environment.

STAFF SUPPORTING INFORMATION:

In March 2002, California voters approved Proposition 40, the \$2.6 billion 2002 State Resources Bond "Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002 (bond)." Based upon State Department of Finance population figures as of January 1, 2002, the City of San Diego will receive a total of \$11,063,430 on a Per Capita basis from the bond. On December 8, 2003, the Mayor and City Council approved Resolution R-298699, which included a distribution of the Per Capita/RZH Per Capita funds to each Council District, with a portion of the funding set aside for projects with citywide and regional impact. On February 20, 2004, the City entered into an umbrella contract with the State of California for the 2002 Resources Bond Act Per Capita/RZH Per Capita Grant Program. While most of the bond funding is restricted to use on capital improvements, the RZH funding can be used for innovative recreational programming.

This action authorizes the Mayor, or his representative, to apply for \$72,719, a portion of the 2002 Resources Bond RZH Per Capita funding allocated to Council District 1. The funds will provide one-time operating and maintenance funds, including staff costs, for the Swanson Memorial Pool, allowing the pool to remain open for an eight week period.

FISCAL CONSIDERATIONS:

Due to budget constraints, Swanson Memorial Pool was scheduled to close March 5, 2006. The infusion of grant funds will allow City staff to keep the pool open, ensuring continued access to the pool for exercise programs, youth team sports and recreational swimming.

This action will fund operating and maintenance costs at the Swanson Memorial Swimming Pool, allowing the pool to remain open from March 5 through May 14, 2006.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The community through the University City Recreation Council has actively pursued funds to keep Swanson Memorial Pool open to the public despite City budget constraints which necessitated closure. Council President Peters committed Council District 1 grant funds, and several community members have made donations to help pay costs to keep the pool open.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Stakeholders: Council President Scott Peters and CD 1 constituents.

Impact: Swanson Memorial Swimming Pool will remain open to the public longer, from March 5 through May 14, 2006.

Oppenheim/Medina

Staff: Carol Wood – (619) 525-8217
Eric A. Swenson – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:53 a.m. – 10:54 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-not present, Hueso-yea.

* ITEM-106: Grant Application to the State of California, Clean Air, Safe Parks, and Coastal Protection Act of 2002, Roberti-Z'berg-Harris Per Capita Block Grant Program Funds for the City Heights Swimming Pool Programs.

(See memorandums from Councilmember Atkins dated 1/30/2006 and 9/1/2005. City Heights Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-741) ADOPTED AS RESOLUTION R-301281

Authorizing the Mayor, or designee, to make an application to the State of California for \$27,600 in Clean Air, Safe Parks, and Coastal Protection Act of 2002, Roberti-Z'berg-Harris Per Capita Block Grant Program funds (the Grant Funds) for the City Heights Swimming Pool Programs (the Project);

Authorizing the Mayor, or designee, to take all necessary actions to secure Grant Funds from the Clean Air, Safe Parks, and Coastal Protection Act of 2002, Roberti-Z'berg-Harris Per Capita Block Grant Program for the Project;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend the Grant Funds if the grant is secured;

Authorizing the City Auditor and Comptroller to establish a special interest-bearing account for the Grant Funds, upon receipt of a fully executed Grant Agreement;

Finding that this Project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility this activity will result in a direct or reasonably foreseeable indirect physical change in the environment.

STAFF SUPPORTING INFORMATION:

In March 2002, California voters approved Proposition 40, the \$2.6 billion 2002 State Resources Bond “Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002 (bond).” Based upon State Department of Finance population figures as of January 1, 2002, the City of San Diego will receive a total of \$11,063,430 on a Per Capita basis from the bond.

On December 8, 2003, the Mayor and City Council approved Resolution R-298699, which included a distribution of the Per Capita/RZH Per Capita funds to each Council District, with a portion of the funding set aside for projects with citywide and regional impact. On February 20, 2004, the City entered into an umbrella contract with the State of California for the 2002 Resources Bond Act Per Capita/RZH Per Capita Grant Program. While most of the bond funding is restricted to use on capital improvements, the RZH funding can be used for innovative recreational programming.

The grant funds requested with this action will be appropriated from the Council District-3 portion of the RZH Per Capita funds which are distributed by Councilmember Toni Atkins. The funds were originally approved for the Bud Kearns Pool Programs in Council District-3 and will be redistributed to the City Heights Pool Programs because of unanticipated repair work necessitating the continued closure of Bud Kearns Pool. Per State requirements, the request for the Bud Kearns Pool Programs will be withdrawn and a new grant application for the City Heights Pool Programs will be submitted. This grant will provide one-time operating and maintenance funds, including staff costs, for the City Heights Pool. This will allow the pool to remain open through April 9, 2006.

FISCAL CONSIDERATIONS:

Due to budget constraints, City Heights Pool was scheduled to close on March 5, 2006. The infusion of grant funds will allow City staff to keep the pool open, ensuring continued access to the pool for exercise programs, youth team sports and recreational swimming.

This action will fund operating and maintenance costs at the City Heights Swimming Pool, allowing the pool to remain open through April 9, 2006.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Resolution Number R-300869, dated September 26, 2005 (allocation of \$27,600 to Bud Kearns Pool located in Council District 3).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

In a City of San Diego Memorandum submitted by Councilmember Toni Atkins to Mayor Jerry Sanders, Councilmember Atkins recommends/requests \$27,600 of Proposition 40 funds be redirected from the Bud Kearns Swimming Pool to the City Heights Swimming Pool.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Stakeholders: Councilmember Toni Atkins and CD-3 constituents.

Impact: City Heights Swimming Pool will remain open to the public longer, from March 6, 2006 through April 9, 2006.

Oppenheim/Medina/CW

Staff: Carol Wood – (619) 525-8217
Eric A. Swenson – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:53 a.m. – 10:54 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-not present, Hueso-yea.

* ITEM-107: Spay Neuter Action Project (SNAP) Day.

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2006-723) ADOPTED AS RESOLUTION R-301282

Encouraging our citizens to have their own pets spayed or neutered, to urge others to alter their pets and to make a lifetime commitment when bringing a pet into their home, and/or to sponsor the spaying or neutering of pets in need;

Proclaiming February 28, 2006, to be "The 12th Annual Spay Day USA" in the City of San Diego in support of the national observation of pet overpopulation prevention.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:53 a.m. – 10:54 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-not present, Hueso-yea.

* ITEM-108: Shirley Phillips Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2006-722) ADOPTED AS RESOLUTION R-301283

Commending Shirley Phillips for her accomplishments and service to the San Diego Museum of Man and wishes her all the best in her retirement;

Proclaiming February 15, 2006, to be "Shirley Phillips Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:53 a.m. – 10:54 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-not present, Hueso-yea.



ITEM-109: Karen Marshall Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2006-720) ADOPTED AS RESOLUTION R-301284

Recognizing Karen Marshall and commending her for her service to the San Diego Human Relations Commission and for her nearly two decades of service to the San Diego's LGBT and HIV/AIDS communities;

Proclaiming February 15, 2006, to be "Karen Marshall Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:55 a.m. – 11:02 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Frye. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, 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-2006-639) ADOPTED AS RESOLUTION R-301285

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: 10:53 a.m. – 10:54 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-not present, 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-2006-700) ADOPTED AS RESOLUTION R-301286

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: 10:53 a.m. – 10:54 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-not present, Hueso-yea.



ITEM-330: Accepting Funds for the Mid-City Transit Gateways Project Phase 2.

(Mid-City and City Heights Community Areas. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-714) ADOPTED AS RESOLUTION R-301287

Authorizing the Mayor to accept \$100,000 in Redevelopment Tax increment funds for the Mid-City Transit Gateways Project, Phase 2 (El Cajon Blvd. and University Ave. Bridge Decks over Highway I-15), Capital Improvements Project No. 39-232.0, 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;

Authorizing the City Auditor and Comptroller to appropriate \$100,000, from Fund No. 10259, Redevelopment Contributions to City Heights Projects to CIP-39-232.0, Mid-City Transit Gateways Project;

Authorizing the increase of the FY06 CIP budget for CIP-39-232.0, Mid-City Transit Gateways Project, Fund No. 30244, Dept. No. 30244, Org. No. 106, and J.O. No. 392320, by \$100,000;

Authorizing the expenditure of an amount not to exceed \$100,000 for contingencies;

Declaring this project is categorically exempt from CEQA per State CEQA Guidelines Section 15303.

STAFF SUPPORTING INFORMATION:

The Mid City Transit Gateways Project was originally funded by a Federal TEA21 enhancement grant of \$4,255,000 and a City TransNet match of \$534,000. Phase 1 of the project has been completed adding landscape improvements to the medians on El Cajon Boulevard between I-15 and 43rd Street. Phase 2 of the project, which is currently under construction, will enhance the freeway bridge decks over I-15 at El Cajon Boulevard and University Avenue with transit shelters, pedestrian amenities and community identification signage.

Phase 2 of the project currently has a funding shortfall of approximately \$100,000, resulting from unanticipated utility connection issues, electrical redesign, and time consuming investigations and underground excavations owing to plan discrepancies. This action approves a transfer of \$100,000, from City Heights Redevelopment Tax Increment funds to the Mid City Transit Gateways Project (CIP-39-232.0), to complete the project. The requested transfer was approved by the City Heights Project Area Committee on January 9, 2006, with the understanding that City staff will discuss project plan discrepancies with CalTrans in an effort to request funds to repay the City Heights Project Area. If the \$100,000, transfer is not approved, there will not be sufficient funds to complete the core project and project goals established by the community will not be met.

FISCAL CONSIDERATIONS:

Mid City Transit Gateways - CIP-39-232.0 was primarily funded with a TEA21 enhancement grant of \$4,255,000 and a City TransNet match of \$534,000. Funding has been further supplemented with a SANDAG grant and Redevelopment Tax Increment. This action approves a transfer of \$100,000 from City Heights Redevelopment Tax Increment funds to complete the project.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This project previously went to City Council on January 13, 2004 (R-298750) to authorize the award and expenditure of funds for the construction of the Mid City Transit Gateways Project - Phase 2. The project also went to the City Council on May 4, 2004 (R-299168) for a transfer of \$200,000 from Redevelopment Tax Increment from the City Heights Redevelopment project area to cover the unanticipated escalation of project material costs (concrete and steel) immediately prior to the bid opening. The \$200,000 transfer was needed to award the construction contract.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

City staff presented an update on the bridge deck project and the fund transfer request to the City Heights Community Planning Group on January 4, 2006, and to the City Heights Project Area Committee (PAC) on January 9, 2006. The City Heights PAC supported the requested \$100,000 fund transfer to complete the project. Supporters: City Heights Business Association, El Cajon Blvd. Business Improvement Association.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Key stakeholders are the business community and the Mid-City residents who travel over the bridge decks or use public transportation on a daily basis. The requested fund transfer will enable the project to be completed, provide the community with new transit shelters on the bridge decks and remove unsightly contractor equipment, materials and fencing.

Waring/Fischle-Faulk

Staff: Alicia M. Higgs - (619) 533-4234
Carol Leone - Deputy City Attorney

NOTE: See the Special Redevelopment Agency Agenda of 3/7/2006 for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:06 a.m. – 11:06 a.m.)

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-not present, Hueso-yea.



ITEM-331: Cooperative Agreement with SANDAG for Mid City Transit Gateways Project Phase 2.

(City Heights, Normal Heights, and Kensington Community Areas. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-732) ADOPTED AS RESOLUTION R-301288

Authorizing the Mayor to enter into a Cooperative Agreement between the City of San Diego and SANDAG, for the Mid City Transit Gateways Project, Phase 2, and take all necessary actions to accept and expend funds;

Authorizing the Mayor, or the appropriate authority, on behalf of the City, to conduct all negotiations, execute and submit all documents, including but not limited to applications, agreements, amendments, necessary to secure funding;

Authorizing the City Auditor and Comptroller to establish a separate interest bearing grant fund as needed for the approved Cooperative Agreement, contingent upon receipt of the grant funds per the Cooperative Agreement;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend up to \$90,000, in SANDAG grant funds for the Mid City Transit Gateways Project, Phase 2, CIP-39-232.0;

Authorizing the Mayor, or the appropriate authority, to increase the Fiscal Year 2006 Capital Improvement Program Budget in an amount not to exceed \$90,000 in CIP-39-232.0, Mid City Transit Gateways Project, Phase 2, contingent upon receipt of a fully signed and executed Cooperative Agreement;

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

STAFF SUPPORTING INFORMATION:

The Mid City Transit Gateways Project (Project) is funded primarily by a Federal TEA 21 enhancement grant and a City TransNet match. The Project is under construction and transit amenities are being installed on the freeway bridge decks over I-15 at El Cajon Boulevard and University Avenue.

SANDAG plans to use the bridge decks on El Cajon Boulevard for transit rider access to future bus rapid transit (BRT) projects on El Cajon Boulevard and on the I-15 freeway below. SANDAG has requested that the Project include three-phase electrical infrastructure for their future needs on the El Cajon Blvd bridge decks and is providing \$90,000 for this work. The existing contractor, Metro Builders and Engineers Group Ltd., is available and willing to add these amenities to their scope of work.

This Council Action would authorize the Mayor, or the appropriate authority, to enter into a Cooperative Agreement between the City of San Diego and SANDAG, for the Mid City Transit Gateways Project, Phase 2, for receipt of a grant of \$90,000, and take all necessary actions to accept and expend funding, and; authorize the Mayor, or the appropriate authority, on behalf of the City of San Diego, to conduct all negotiations, execute and submit all documents which may be necessary to secure funding, and; authorize the Auditor and Comptroller to establish a separate interest bearing grant fund as needed for the approved Cooperative Agreement, and; authorize the City Auditor and Comptroller to accept, appropriate, and expend up to \$90,000 in SANDAG grant funds for the Mid City Transit Gateways Project, Phase 2, and; authorize the Mayor, or the appropriate authority, to increase the FY 2006 Capital Improvement Program Budget in an amount of \$90,000 in CIP-39-232.0, Mid City Transit Gateways Project, contingent upon receipt of a fully signed and executed Cooperative Agreement.

FISCAL IMPACT:

A grant from SANDAG to the Mid City Transit Gateways Project, Phase 2, adds \$90,000 to CIP-39-232.0, Dept. 30244, Org. 106, JO 392320.

Oppenheim/Fischle-Faulk/SM

Staff: Alicia Martinez-Higgs - (619) 533-5166
Jacqueline Lindsay - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:06 a.m. – 11:06 a.m.)

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-not present, Hueso-yea.



ITEM-332: Second Amendment to Consultant Agreement with Kawasaki, Theilacker, Ueno + Associates for the Mid City Transit Gateway Project Phase 2.

(City Heights, Normal Heights, and Kensington Community Areas. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-731) ADOPTED AS RESOLUTION R-301289

Authorizing the Mayor to execute, for and on behalf of the City, an amended Consultant Agreement with Kawasaki, Theilacker, Ueno + Associates (KTU + A), in the amount not to exceed \$55,000, for additional construction administration services and "as-built" services, for the Mid City Transit Gateway Project Phase 2, 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 the City Auditor and Comptroller to expend an amount not to exceed \$55,000 from Mid City Transit Gateway Project, CIP-39-232.0, Fund 30244, Org. 106, JO 392320, for (KTU + A) Amended Agreement Phase 2, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for such 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.

STAFF SUPPORTING INFORMATION:

The Mid City Transit Gateways Project (Project) is funded by a Federal TEA 21 enhancement grant, a City TransNet match, a SANDAG grant and City Heights Redevelopment funds. The project is under construction and transit amenities are being installed on the freeway bridge decks over I-15 at El Cajon Boulevard and University Avenue.

The current design Consultant Team of KTU + A is being called on to provide additional construction administration and “as-built” services over and above those initially anticipated (original Agreement was authorized by RR-294493, filed January 30, 2001, and Amendment No. 1 was authorized by RR-298092, filed on June 17, 2003). A \$55,000 addition to the Consultant Agreement with KTU + A in Amendment No. 2 is necessary to provide the following: responses to additional contractor requests for information; review of additional shop drawings and product submittals; re-design necessitated by unforeseen site conditions, utility conflicts; SANDAG-requested construction modifications which require additional design services, for which they are providing funding; review of contractor requests for construction change orders; site visits to review construction changes; and, documentation of field changes related to layout, utility conflicts and electrical connection changes.

FISCAL IMPACT:

This Council Action would approve Amendment No. 2 to the City’s Consultant Agreement with KTU + A in an amount not to exceed \$55,000 and would authorize the City Auditor and Comptroller to expend \$55,000 for this purpose from Fund 30244, Dept. 30244, Org. 106, JO 392320.

Oppenheim/Fischle-Faulk/SM

Aud. Cert. 2600602.

Staff: Alicia Martinez-Higgs - (619) 533-5166
Jacqueline Lindsay - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:07 a.m. – 11:08 a.m.)

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-not present, Hueso-yea.



ITEM-333: Two actions related to Exchange Agreement with Simplon Ballpark, LLC for a New State of the Art Fire Station No. 4 in the Downtown Community Area.

(Downtown Community Area. District 2.)

(Continued from the meeting of February 21, 2006, Item 201, at the request of the Mayor, for further review.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2006-705 Rev.) ADOPTED AS AMENDED AS RESOLUTION
R-301290

Authorizing the Mayor, or designee, to execute, for and on behalf of the City of San Diego, an Exchange Agreement with Simplon Ballpark, LLC, and to take all actions necessary to complete the exchange of the City's 5,000 square foot lot located at the northwest corner of 8th Avenue and J Street with a 7,120 square foot 69 year old fire station (Existing Fire Station) for a new state of the art 13,190 square foot facility to be built one lot to the north of the Existing Fire Station within Simplon's proposed project, under the terms and conditions set forth in that agreement.

Subitem-B: (R-2006-706 Cor. Copy) ADOPTED AS RESOLUTION R-301291

Stating for the record that the Exchange Agreement between the City of San Diego and Simplon Ballpark, LLC, is a subsequent discretionary approval of the Project addressed in the Final Master Environmental Impact Report for the Centre City Redevelopment Project, SCH No. 90010898, and the Final Subsequent Environmental Impact Report for the Centre City Redevelopment Project, as stated in the Final Environmental Secondary Study for the Proposed Cosmopolitan Square Project dated January 2006, on file with the Centre City Development Corporation, and therefore not a separate project under CEQA Guidelines Sections 15060(c)(3) and 15378(c);

Stating for the record that the information contained in the Final Master Environmental Impact Report for the Centre City Redevelopment Project, SCH No. 90010898, and the Final Subsequent Environmental Impact Report for the Centre City Redevelopment Project, including any comments received during the public review process, have been previously reviewed and considered by this Council and it is determined that this subsequent discretionary approval of the Exchange Agreement between the City of San Diego and Simplon Ballpark, LLC, does not involve substantial changes or new information of substantial importance which would warrant any additional environmental review;

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.

STAFF SUPPORTING INFORMATION:

Simplon Ballpark, LLC is offering to replace the existing Fire Station 4, located at 8th and J Street, with a new, larger facility adjacent to the existing site. The existing fire station is a two-story, 7,120 square foot cast-concrete structure built in 1937, situated on a 5,000 square foot lot. The proposed new fire station is contemplated to be an approximate 13,190 square foot two-story state of the art structure with underground parking that will be able to meet the needs of the continued growth of the downtown area. The new station would be incorporated into Simplon's mixed-use project of retail, office, and high-rise condominiums to be known as Cosmopolitan Square. In exchange for the development of the new fire station facility, Simplon would receive the site of the old facility. During construction the current site will remain occupied and fully functional until the new site is ready for occupancy.

FISCAL CONSIDERATIONS:

As well as the ongoing maintenance of the facility, would be a monthly maintenance association fee of approximately \$255 (estimated by the developer).

In addition, by approving this agreement the City will incur an estimated expenditure, over the three year life of the project, of approximately \$150,000 to \$180,000 in costs related to design construction review and project management by Engineering and Capital Projects (E&CP) staff. These staff would normally charge their time to a revenue generating project and the City would be reimbursed for these costs. Since this is a General Fund project, the funding source for the time spent by staff will be the General Fund.

While adequate appropriations currently exist in the fiscal year 2006 budget to cover the related expenses and will be included in the fiscal year 2007 and 2008 budgets, this action will likely result in a decrease in projected revenues from third party projects. This will be reflected in the fiscal year 2007 and 2008 budgets.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

By Council Resolution R-300579 dated June 27, 2005, the Council authorized the City to enter into an Exclusive Negotiating Agreement (ENA) with Simplon Ballpark, LLC, for the proposed construction of a new fire station located in the downtown area.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The overall plan for the mix-use development has been approved by CCDC.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The Fire Department will receive a state of the art facility, almost twice the size of the current station. The downtown area would receive the additional fire protection necessary to meet the continuing growth in the area.

Waring/MacKenzie/Farris

Staff: Jack Farris – (619) 236-5548
Hilda Mendoza – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:05 p.m. – 2:22 p.m.)

MOTION BY FAULCONER TO ADOPT WITH THE AMENDMENT THAT THE AMOUNT SHALL NOT EXCEED \$250 TO \$300 MAXIMUM PER MONTH ON THE RESOLUTION AND THE AGREEMENT. Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.



ITEM-334: College Grove Condos.

Matter of approving, conditionally approving, modifying or denying a 45-unit residential condominium development on a 1.91-acre site located at 6420 College Grove Drive. The project requires a Rezone from RM-1-1 and RS-1-7 to RM-2-5; an Easement Vacation to abandon a storm drain easement; a Vesting Tentative Map for condominium development; a Planned Development Permit for deviations to certain development regulations; and, a Site Development Permit for environmental sensitive lands.

(Eastern Neighborhood of Mid-City Communities Plan Area. District 7.)

STAFF'S RECOMMENDATION:

Adopt the resolutions in Subitems A, C, and D; and introduce the ordinance in Subitem B:

Subitem-A: (R-2006-667) CONTINUED TO MONDAY, MARCH 20, 2006

Adoption of a Resolution certifying Mitigated Negative Declaration LDR No. 56578, 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 declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the 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 a rezone, vested tentative map with easement abandonment, and planned development permit/site development permit for the College Grove Condos;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the Office of the City Clerk and incorporated by reference, is approved;

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;

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.

Subitem-B: (O-2006-92) CONTINUED TO MONDAY, MARCH 20, 2006

Introduction of an Ordinance changing 1.91 acres, located at 6420 College Grove Drive, east of College Avenue, in the eastern area community of the Mid-City Communities Plan Area, in the City of San Diego, California, from the RM-1-1 and the RS-1-7 Zones of the Central Urbanized Planned District into the RM-2-5 Zone of the Central Urbanized Planned District, as defined by San Diego Municipal Code Sections 131.0406 and 131.0403, and Repealing Ordinance No. O-18855 (New Series), adopted October 2, 2000, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

Subitem-C: (R-2006-666) CONTINUED TO MONDAY, MARCH 20, 2006

Adoption of a Resolution adopting the findings with respect to Planned Development Permit No. 165297/Site Development Permit No. 289473;

That Planned Development Permit No. 165297/Site Development Permit No. 289473 is granted to Beacon Group, LLC, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

Subitem-D: (R-2006-665) COTINUED TO MONDAY, MARCH 2006

Adoption of a Resolution adopting the findings with respect to Vesting Tentative Map No. 172907;

That pursuant to California Government Code Section 66434(g), the public service easement as shown on Drawing No. 6572-D, and located within the project boundaries as shown in Vesting Tentative Map No. 172907, shall be vacated, contingent upon the recordation of the approved final map for the project;

That Vesting Tentative Map No. 172907 is granted to Beacon Group LLC, Applicant/Subdivider and Project Design Consultants, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

OTHER RECOMMENDATIONS:

Planning Commission on January 19, 2006, voted 5-0 to approve; no opposition.

Ayes: Schultz, Garcia, Chase, Ontai, Steele

Not present: Griswold, Otsuji

On November 22, 2005, the Eastern Area Planning Committee recommended approval of the project by a vote of 12-0-0 with no conditions.

STAFF SUPPORTING INFORMATION:

The College Grove Condominium Project is a 45-unit residential condominium development to be constructed at a 1.91-acre vacant site located at 6420 College Grove Drive, just south of College Avenue. Project implementation requires the following approvals: A rezone from R-1-1 and RS-1-7 to RM-2-5; an easement vacation to abandon a ten foot wide storm drain easement; a Vesting Tentative Map for the condominium development; a Planned Development Permit for the proposed deviation to the front and side yard setback and retaining wall height; and, a Site Development Permit for potential impacts to the biological and paleontological resources.

On January 19, 2006, the Planning Commission recommended unanimous approval of the project by a vote of 5-0-0. The property is located in the Eastern Community of the Mid City Communities Planning Area and within Council District 7.

Halbert/NSK

LEGAL DESCRIPTION:

The proposed development would be located at 6420 College Grove Drive in the Mid-City Community Plan (Lot 3 College Grove Center) in the City and County of San Diego.

Staff: Nilia Koering – (619) 446-5107

Douglas K. Humphreys – Deputy City Attorney

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:05 p.m.)

MOTION BY FAULCONER TO CONTINUE TO MONDAY, MARCH 20, 2006, FOR ATTENDANCE BY THE FULL COUNCIL. Second by Frye. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-not present.



ITEM-S500: Matter of Whether to Provide for Defense of Former Employee in City of San Diego v. Means, et al.

(See City Attorney Report dated 2/15/2006.)

(Continued from the meeting of February 27, 2006, Item 201, at the request of Councilmember Hueso, for further review.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the resolution for either Option A or Option B:

(R-2006-721 Option A) ADOPTED AS RESOLUTION R-301292

Finding that an inherent conflict of interest exists between the City of San Diego and former employee Tracy Means in that the City is a plaintiff in the action against Ms. Means in the lawsuit described above, and therefore, declines to provide a defense to Ms. Means under the exceptions provided by California Government Code Sections 995.2 and 995.4;

Finding that the complaint contains allegations of fraud and corruption and, therefore, declines to provide a defense to Ms. Means under the exceptions provided in California Government Code Section 995.2.

OR

(R-2006-721 Option B) NOTED AND FILED

Authorizing the payment of attorney's fees and costs related to the provision of a defense of former employee Tracy Means in the action entitled City of San Diego v. Tracy Means, et. al., San Diego Superior Court Case No. GIC 858344, 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.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. – 3:00 p.m.)

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

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Pro Tem Young at 3:01 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 3:01 p.m. – 3:01 p.m.)