THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, MARCH 27, 2006
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:03 p.m. Council President Peters recessed the meeting at 2:11 p.m. into Closed Session. Council President Peters reconvened the meeting at 2:44 p.m. with all Council Members present. Council President Peters recessed the meeting at 3:51 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:59 p.m. with all Council Members present. Council President Peters recessed the meeting at 5:32 p.m. into Closed Session. Council President Peters reconvened the meeting at 6:01 p.m. with all Council Members present. Council President Peters recessed the meeting at 6:24 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 6:30 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 7:11 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-not 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 James Gilbert of Fairmount Baptist Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Atkins.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

Conference with Labor Negotiator, pursuant to Government Code section 54957.6:

CS-1 Agency negotiator: Scott Chadwick, J. Rod Betts, Julie Dubick, Lisa Briggs, Jay Goldstone, Rich Snapper, Scott Chadwick, Val VanDeweghe, Jessica Falk Michelli William Gersten

Employee organizations: Municipal Employees Association, Local 145 International Association of Firefighters AFL-CIO, San Diego Police Officers Association, Deputy City Attorney Association, AFSCME Local 127

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 28, 2006

DCA assigned: J. Falk Michelli

1. Discuss with Council the negotiations with all five labor unions (Municipal Employees Association, AFSCME Local 127, Police Officers Association, International Association of Firefighters Local 145, and the Deputy City Attorney's Association) regarding the Mayor's two Ballot proposals that would allow for the managed competition of certain City services and also require voter approval for enhancements to employee pension benefits and deliberations, if necessary, following impasse procedures.

2. Discuss with Council the upcoming labor contract negotiations with the Police Officers Association, International Association of Firefighters Local 145, and the Deputy City Attorney Association regarding new labor agreements.

CLOSED SESSION COMMENT 1:

Hud Collins commented on calling an immediate summit with the unions.

CLOSED SESSION COMMENT 2:

Scott Alevy commented on the process coming to a conclusion.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:10 p.m.)

Council President Peters closed the hearing.

THIS ITEM IS AWAITNG LEGAL CONFIRMATION ADDRESSING THE DOCKETING ISSUES.

ITEM-150: Two actions related to Approval of Mayor's Proposals for the November 2006 Ballot.

(See Report to the City Council No. 06-017; memorandum from Ronne Froman dated 2/17/2006; City Attorney Reports dated 2/1/2006 and 2/2/2006; Center on Policy Initiatives Information (CPI); Draft Ordinances with options A and B; Mayor Sanders proposed Implementing Ordinance Language dated 2/21/2006 revised; Mayor responses to Councilmembers and San Diego County Tax Payers Association; Independent Budget Analyst Report No. 06-13.)

(Continued from the meeting of February 27, 2006, Item 150, at the request of Councilmember Madaffer, for further review.)

TODAY'S ACTIONS ARE:

Introduce the following ordinances:

Subitem-A: (O-2006-115 Cor. Copy) INTRODUCED AND ADOPTED AS ORDINANCE O-19473 (NEW SERIES)

Mayor's recommendation:
Approve version B of the ballot measure for voter approval of future pension benefit increases and place measure on the November 2006 Ballot for voter consideration.

Introduction of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide General Election to be held on November 7, 2006, one proposition amending the City Charter by amending Article IX, Section 143.1, regarding approval of amendments to the retirement system.

Subitem-B: (O-2006-93) INTRODUCED AND ADOPTED WITH DIRECTION AS ORDINANCE O-19474 (NEW SERIES)

Mayor's recommendation:
Approve version B of the ballot measure for use of managed competition to restructure and achieve efficiencies in City operations and place measure on the November 2006 Ballot for voter consideration.

Introduction of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide General Election to be held on November 7, 2006, one proposition amending the City Charter by adding Subsection(c) to Article VIII, Section 117, regarding the use of managed competition.

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

On 2/8/2006, Rules voted 5 to 0 to refer the Mayor's Ballot Proposals for the November 2006 Election to the full City Council for consideration within the time constraints, with direction to the City Attorney to provide written clarification of ballot deadlines. (Councilmembers Peters, Young, Maienschein, Frye, and Madaffer voted yea.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 3:48 p.m.;
6:30 p.m. – 7:06 p.m.)

MOTION BY FAULCONER TO INTRODUCE AND ADOPT SUBITEM A PLACING ON THE NOVEMBER 2006 BALLOT MAYOR SANDERS' BALLOT PROPOSAL "VERSION E" ON VOTER APPROVAL OF FUTURE PENSION BENEFIT INCREASES. Second by Maienschein. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-nay.

MOTION BY FAULCONER TO INTRODUCE AND ADOPT SUBITEM B PLACING ON THE NOVEMBER 2006 BALLOT MAYOR SANDERS' BALLOT PROPOSAL "VERSION G" ON MANAGED COMPETITION. Second by Maienschein. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-nay.

MOTION BY FAULCONER TO DIRECT THE MAYOR AND CITY ATTORNEY INCLUDE IN THE DRAFT IMPLEMENTING ORDINANCE THE APPROPRIATE PROCEDURES AND REGULATIONS TO FULLY IMPLEMENT THE MAYOR'S BALLOT PROPOSAL VERSION G. IT IS RECOMMENDED THAT THE MAYOR INCLUDE THE FOLLOWING POINTS IN THE IMPLEMENTING ORDINANCE SUBJECT TO MEET AND CONFER: 1) A CITY DEPARTMENT SHALL BE PROVIDED RESOURCES TO DEVELOP A PLAN TO IMPROVE EFFICIENCY AND EFFECTIVENESS IN ITS OPERATIONS. THE RESULTING PLAN SHALL BE COMPLETED PRIOR TO THE CITY MANAGER SOLICITING PROPOSALS FROM INDEPENDENT CONTRACTORS; 2) SUCH IMPLEMENTING ORDINANCE SHALL INCLUDE DEFINED MINIMUM CONTRACT STANDARDS AND OTHER MEASURES NEEDED TO PROTECT THE QUALITY AND RELIABILITY OF PUBLIC SERVICES; 3) THAT THE MAYOR WORK WITH THE CITY ATTORNEY'S OFFICE AND COUNCIL PRESIDENT PETERS TO FORWARD THE DRAFT IMPLEMENTING ORDINANCE LANGUAGE TO THE CITY COUNCIL WITHIN 180 DAYS FROM TODAY'S HEARING; AND 4) NOTHING IN THESE BALLOT MEASURES OR FUTURE ORDINANCES SHOULD BE CONSTRUED TO INTERFERE WITH THE CITY'S ABILITY TO CONTINUE TO CONTRACT OUT SERVICES WHICH HAVE BEEN PREVIOUSLY CONTRACTED OUT BY THE CITY UNDER EXISTING LAWS AND CITY REGULATIONS. NOTHING IN THESE BALLOT MEASURES OR FUTURE ORDINANCES SHOULD BE CONSTRUED TO INTERFERE WITH THE CITY'S MEMORANDUMS OF UNDERSTANDING. Second by Maienschein. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-250: **Notice** of Pending Final Map Approval – 2017 Oliver Avenue.

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 "2017 Oliver Avenue" (T.M. No. 145213/PTS No. 84848), located on the south side of Oliver Avenue between Morrell Street and Noyes Street in the Pacific Beach 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-S400: Nonexclusive Chilled Water Franchise Agreement with JMIR-Chilled Water LLC, for Temperature Controlled Water Located in the Ballpark District.

(Ballpark District Community Area. District 2.)

(Continued from the meeting of March 21, 2006, Item 53, at the request of Councilmember Frye, for further review.)

CITY ATTORNEY'S RECOMMENDATION:

Introduce the following ordinance:

(O-2006-97 Cor. Copy) CONTINUED TO MONDAY, APRIL 17, 2006

Introduction of an Ordinance authorizing and empowering the Mayor, for and on behalf of the City, to execute a non-exclusive Chilled Water Franchise Agreement between the City of San Diego and JMIR-Chilled Water LLC, under the terms and conditions set forth in the Chilled Water Franchise Agreement;

Declaring this activity is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378(b)(4) because this activity is the creation of a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant impact on the environment.

NOTE: 6 votes required.

SUPPORTING INFORMATION:

Rather than construct separate heating and cooling facilities for each of the Ballpark, Omni Hotel, and their other development responsibilities in the Ballpark District, Padres/JMI Realty (JMI) constructed a central chilled water system (Chilled Water System), located on the D1 - D2 lots. The City, through the Centre City Development Corporation, permitted the necessary placement of pipes in the public right-of-way to serve those specific locations only pursuant to permanent encroachment permits. A franchise agreement with the City is required, however, for JMI to sell chilled water to other development within the Ballpark District. JMI is proposing that the City grant a non-exclusive franchise, conveying the right to use the City's streets for the purpose of constricting, maintaining, and operating a Chilled Water System for provision of temperature controlled water (Service) in the Ballpark District.

The proposed franchise agreement (Agreement) is between the City and JMIR-Chilled Water LLC, a Delaware limited liability company (Grantee). Pursuant to the Agreement, the Grantee will make the Service available to facilities within the Ballpark District, including facilities that are owned or controlled by the City (e.g., the Ballpark and proposed new main library), the

Redevelopment Agency of the City of San Diego, the Centre City Development Corporation, and the Metropolitan Transit Development Board (Public Projects). The Grantee is not responsible for paying the franchise fee for Service (Exempt Gross Receipts) provided to the Public Projects, ad well as projects which JMI or its affiliates control. Or have a substantial ownership interest in (i.e., an ownership interest of 25% or more); projects which were developed as part of Phase 1 of the Ballpark District; and the Omni residential condominiums (collectively Exempt Projects). The Grantee will pay a franchise fee of 5% of "non-exempt gross receipts." Non-exempt gross receipts means all gross operating revenues received by the Grantee from the sale of the Service within the Ballpark District less Exempt Gross Receipts. The franchise fee is equivalent to the franchise fee imposed on cable franchised and is more than what currently is paid by SDG&E for its franchise.

The term of the Agreement is fifty years. The Agreement contains standard franchise agreement language respecting: relocation of facilities at the Grantee's own cost and expense when required to do so by the City; restoration of the public right-of-way disturbed by the construction, operation, or removal of the Chilled Water System; and payment of the City's trench cut fee and related warranties. The franchise may not be transferred or assigned without the City's written consent. The Grantee is required to provide the City with a Security Fund in the amount of at least $50,000, as security for the faithful performance of the provisions of the Agreement, and is responsible for paying any possessory interest tax that may be levied by the County.

All franchise fee receipts and Security funds resulting from this agreement will by deposited in to the General Fund (Fund 100).

Haas/Salt

FILE LOCATION: NONE

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

MOTION BY FRYE TO CONTINUE TO MONDAY, APRIL 17, 2006, FOR FURTHER REVIEW. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-not present, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-S401: Impasse Procedure.

MAYOR SANDERS' RECOMMENDATION:

HEARING HELD

Providing an impasse procedure, if necessary, for Management and Labor Organizations currently involved in negotiations regarding Mayor Sanders' proposed two Charter amendments that would: 1) allow for the contracting out of certain City services and 2) require voter approval of enhancements to employee benefits.

SUPPORTING INFORMATION:

Providing an impasse procedure, if necessary, for Management and Labor Organizations currently involved in negotiations regarding Mayor Sanders' proposed two Charter amendments that would 1) allow for the contracting out of certain City services and 2) require voter approval of enhancements to employee benefits.

The current MOU and Council Policy 300-6 provide that Labor Organizations have a right to Council hearing on any issues at impasse at the conclusion of negotiations.

The purpose of the impasse meeting shall be to identify and specify in writing the issue or issues that remain in dispute according to Council Police 300-6.

Sanders/Gattas

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:00 p.m. – 5:32 p.m.;
6:02 p.m. – 6:23 p.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 7:11 p.m. in honor of the memory of:

Patricia Schaechlin as requested by Council President Peters; and
Clarence McCoy as requested by Council President Pro Tem Young.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 7:07 p.m. – 7:11 p.m.)