THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, MARCH 28, 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 Peters at 10:04 a.m. Council President Peters recessed the meeting at 11:49 a.m. to convene the Housing Authority. Council President Peters reconvened the regular meeting at 11:50 a.m. with all Council Members present. Council President Peters recessed the meeting at 11:51 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:06 p.m. with all Council Members present. Council President Peters recessed the meeting at 2:59 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the meeting at 3:02 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 3:31 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 (ek/er)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

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

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Hud Collins commented on the financial and pension crisis in the City of San Diego.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-2:

Don Stillwell commented on the subject of transportation service in the community.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:09 a.m. – 10:11 a.m.)

PUBLIC COMMENT-3:

Al Strohlein commented on the calculating Alcoholic Beverage Commission.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:12 a.m. – 10:16 a.m.)

PUBLIC COMMENT-4:

Michael Bell commented on civility and respect on the part of the citizens of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:18 a.m.)

PUBLIC COMMENT-5:

Sandy Summers commented on civil rights.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:22 a.m.)

PUBLIC COMMENT-6:

Jarvis Ross commented on re-dedication in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:23 a.m. – 10:25 a.m.)

PUBLIC COMMENT-7:

Ron Boshun commented on the actions of the City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:29 a.m.)

PUBLIC COMMENT-8:

Megnion Scherer commented on the subject of growth in the City of San Diego.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-9: **REFERRED TO THE MAYOR'S OFFICE AND THE PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE**

John Patrick Ford and Leanne Marchese commented on issues affecting senior citizens in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:30 a.m. – 10:35 a.m.)

PUBLIC COMMENT-10: **REFERRED TO THE SAN DIEGO POLICE DEPARTMENT**

Scott Andrews commented regarding the making of arrests in public places. Mr. Andrews also commented on the Navy Broadway Plan in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:35 a.m. – 10:38 a.m.)

COUNCIL COMMENT:

None.

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

01/16/2006 - Adjourned
01/17/2006
01/23/2006
01/24/2006
01/30/2006
01/31/2006

FILE LOCATION: MINUTES

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

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

ITEM-31: Kiwanis 30th Anniversary Day.

COUNCILMEMBER MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-788) ADOPTED AS RESOLUTION R-301322

Congratulating the Kiwanis Club of Tierrasanta, San Diego, on its 30th anniversary and proclaiming March 30, 2006, to be "Kiwanis Club of Tierrasanta Day" in the City of San Diego.

FILE LOCATION: AGENDA

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

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

ITEM-50: Two actions related to Proposed Tenth Amendment to the Redevelopment Plan for the Centre City Redevelopment Project and the Centre City Planned District Ordinance.

(See Centre City Development Corporation Report CCDC-06-06/CCDC-06-04. Centre City Community Plan Area. Districts 2 and 8.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinances which were introduced on 2/28/2006, Item 331, Subitems A and C. (Council voted 6-2. Councilmembers Peters, Faulconer, Atkins, Young, Maienschein, and Hueso voted yea. Councilmember Frye and Madaffer voted nay.):

Subitem-A: (O-2006-84 Rev. Copy 2) ADOPTED AS ORDINANCE O-19471 (New Series)

Deleting Chapter 10, Article 3, Divisions 19.1 through 19.2, inclusive, and Division 19.5, of the San Diego Municipal Code and replacing the deleted Sections with Chapter 15, Article 1, Division 3, all relating to the Centre City Planned District Land Use Regulations and Design and Development criteria to implement the Downtown Community Plan and replacing the deleted sections.

Subitem-B: (O-2006-85) ADOPTED AS ORDINANCE O-19472 (New Series)

Approving and adopting the proposed Tenth Amendment to the Redevelopment Plan for the Centre City Redevelopment Project.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:45 a.m. – 11:20 a.m.)

MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCES. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea (nay on the issue of Parking Requirements), Young-yea, Maienschein-yea, Frye-nay, Madaffer-nay, Hueso-yea.

Motion by Atkins to return the issue of Parking Requirements for the project back to Council in 30 days. Second by Madaffer. Failed. Yeas-3,6,7. Nays-2,4,5,8,C. Not present-None.

* ITEM-51: Amending the San Diego Municipal Code Relating to Social Host Liability.

CITY ATTORNEY'S RECOMMENDATION:

Introduce the following ordinance:

(O-2006-90) INTRODUCED, TO BE ADOPTED ON TUESDAY, APRIL 18, 2006

Introduction of an Ordinance amending Chapter 5, Article 6, of the San Diego Municipal Code by amending Sections 56.60, 56.62, and 56.63, and adding Sections 56.64 and 56.65, relating to the prohibition against hosting, permitting, or allowing gatherings where minors are consuming alcoholic beverages.

SUPPORTING INFORMATION:

On May 6, 2003, the San Diego City Council approved Ordinance O-19172 N.S. (the Social Host Ordinance) adding Sections 56.60-56.63, relating to prohibitions against consumption of alcoholic beverages by minors, and hosting or allowing gatherings where minors consume alcoholic beverages. The Ordinance's purposes were to protect public health, safety, and welfare; to enforce laws prohibiting consumption of alcohol by minors; and to reduce costs of providing police response to parties by making hosts ensure minors do not consume alcohol. The City Attorney continues to believe the ordinance is a lawful exercise of the City's police power to promote citizens' health, safety, and general welfare. While the State of California has "the exclusive right and power to license and regulate the manufacturer, sale, purchase, possession and transportation of alcoholic beverages within the State" per Article XX, Section 22 of the California Constitution, cities may regulate alcohol consumption. *People v. Brewer*, 235 Cal. App. 3d 909 (1991); *People v. Butler*, 252 Cal. App. 2d Supp. 1053 (1967).

Ordinance O-19172 N.S. was intended to remedy the harms caused by underage drinking parties, including alcohol abuse, vandalism, excessive noise, traffic accidents, and physical altercations and injuries. The Ordinance made it unlawful for a minor, a person under the age of twenty-one, to consume alcohol at any public place, place open to the public, or place not open to the public unless supervised by the minor's parent or guardian. Further, the Ordinance made it unlawful for a person to allow or host a party at his or her home or other premises under his or her control where three or more minors are present and a minor consumes alcohol. After the Ordinance's passage, the San Diego Police Department used the Municipal Code provisions to successfully abate dozens of unruly parties that involved underage drinking.

On September 7, 2004, the San Diego Superior Court's Appellate Division held, in an unpublished opinion, that Section 56.62(a) as originally enacted was "constitutionally impermissible "because of" the lack of a *mens rea* in the ordinance." Specifically, the court believed Section 56.62 violated the right to due process because a person could have been convicted under the original ordinance even if he was unaware or would not reasonably know that a party as taking place or that minors were present or consuming alcohol. Municipal Code Section 56.61, prohibiting the consumption of alcohol by minors, was not addressed or impacted by the Appellate Division's ruling. Following the ruling, the San Diego Police Department ceased enforcing Section 56.62, pending the redrafting of the ordinance.

The proposed amendments in the Ordinance now before the Council address the Appellate Division's concerns by imposing a duty on social hosts to take all reasonable steps to ensure that a minor is not consuming alcoholic beverages and adding the requisite "*mens rea*" or knowledge element. Further, the proposed amendments clarify the remedies available to the City of San Diego, including criminal prosecution, civil enforcement, and recovery of response costs.

Aguirre/JFD

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:43 a.m. – 10:45 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. 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-100: Copyright Assignment and Agreement with San Diego Coastkeeper for Project Stewardship: Water Education for Lifelong Leadership (SWELL).

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-806) ADOPTED AS RESOLUTION R-301323

Authorizing and empowering the Mayor, or his designee, to enter into the Copyright Assignment and Agreement with San Diego Coastkeeper for Project SWELL;

Finding that this activity is not a project because this activity does not result in a direct or reasonably foreseeable indirect physical change in the environment, and is therefore not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(2).

STAFF SUPPORTING INFORMATION:

In Fiscal Year 2001, the City was directed via the Regional Water Quality Control Board Order No. 2001-01, to execute environmental education and outreach activities to school children regarding urban runoff, its causes and the impact on San Diego's watershed's and unique coastal marine waters. To meet the regulation and further our effort to build environmental awareness in our community at large, the Storm Water Pollution Prevention Program's education campaign, Think Blue, embarked on a collaborative effort with San Diego Coastkeeper and the San Diego City School District. The goal is to develop a kindergarten through 12th grade science curricula that would meet California's Science standards using San Diego's unique bio-diversity to illustrate the principles and serve the students as a living real-world laboratory environment. The Curricula is Project SWELL-Stewardship: Water Education for Lifelong Leadership. To date, the 5th grade curriculum is completed and in use in San Diego City Schools, and two additional grades, 4th and 6th, will be printed and distributed before the Fall of 2006;

Executing the Copyright Assignment & Agreement for Project SWELL, a joint project between the City of San Diego and San Diego Coastkeeper, will formalize the roles of the City of San Diego, San Diego Coastkeeper, and the Author of the curricula. This agreement will also protect the copyright of the Works (i.e. materials, art, illustrations, graphics, maps, and writings).

FISCAL CONSIDERATIONS:
There is no fiscal impact.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
Coastkeeper is actively promoting Project SWELL curricula to raise contributions and solicit partnerships in order to fund the development costs. The City of San Diego has information about Project SWELL curricula posted on its web site, www.ThinkBluesd.org.

KEY STAKEHOLDERS & PROTECTED IMPACTS (if applicable):
San Diego City Schools, Regional School Districts, Educators and Children are the key stakeholders. No opposition has been evident since project inception.

Haas/Ferrier/CZ

Staff: Chris Zirkle – (619) 525-8644
Timothy J. Miller – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:43 a.m. – 10:45 a.m.)

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

ITEM-101: Establishing a City Council Policy for the Use of the City Suite at PETCO Park.

(See Report to the City Council No. 06-031.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-818) ADOPTED AS RESOLUTION R-301324

Adopting City Council Policy No. 700-47 Governing Use of Game/Event Tickets for the City Suite at PETCO Park and related parking passes.

Staff: Dennis Gibson - (619) 533-3451.
Sharon B. Spivak – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:21 a.m. – 11:39 a.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-102: Change to the Natural Resources and Culture Committee's Legislative Calendar for the Month of May 2006 to Accommodate the Fiscal Year 2007 Budget Process Calendar.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-803) ADOPTED AS RESOLUTION R-301325

Changing the Natural Resources and Culture Committee's Legislative Calendar for the month of May 2006 to accommodate the Fiscal Year 2007 Budget Process Calendar as follows:

Natural Resources and Culture Committee:

Reschedule the meeting originally planned for Wednesday, May 3, 2006, to Wednesday, May 17, 2006.

Authorizing and directing the City Clerk to amend the 2006 Legislative Calendar to reflect the above change.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:43 a.m. – 10:45 a.m.)

CONSENT MOTION BY MADAFFER 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-103: Greening the City Day.

COUNCILMEMBER FAULCONER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-802) ADOPTED AS RESOLUTION R-301326

Honoring Partners for Livable Places/San Diego for raising our collective attention to the value of our urban parkland and for drawing national attention to the City of San Diego as a "Park Place";

Proclaiming March 15, 2006, to be "Greening the City Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:43 a.m. – 10:45 a.m.)

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

* ITEM-104: Excusing Councilmember Maienschein from Attending the City Council and Closed Session Meetings of March 20 and 21, 2006.

COUNCILMEMBER MAIENSCHEIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-781) ADOPTED AS RESOLUTION R-301327

Excusing Councilmember Brian Maienschein from attending the regularly scheduled City Council meetings and Closed Session of March 20 and 21, 2006.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:43 a.m. – 10:45 a.m.)

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

ITEM-330: Preliminary Bond Items and Loan for Del Sol Apartments.

(See the San Diego Housing Commission Report No. HAR06-003. Otay Mesa - Nestor Community Area. District 8.)

SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-744) ADOPTED AS RESOLUTION R-301328

Approving the Issuance of Bonds by the Housing Authority of the City of San Diego for the Del Sol Apartments, pursuant to Section 147(f) of the Internal Revenue Code of 1986;

Declaring the City does not warrant the creditworthiness of the Bonds or guarantee, in any way, the payment of the Bonds. No moneys of the City will be pledged or applied to the repayment of the Bonds.

SUPPORTING INFORMATION:

The Housing Commission has been working with the Wakeland Housing and Development Corporation (Wakeland) to acquire, rehabilitate, and preserve the affordable housing units located at 3606-3690 Del Sol Boulevard. Wakeland is a California 501(c)(3) nonprofit corporation established in 1998 with the mission of developing affordable housing. Wakeland has participated in the development of over 1,900 affordable rental housing units in San Diego and has collaborated with the Housing Commission on several successful projects. The current affordability restrictions on the project are set to expire and the project needs to be rehabilitated to address deferred maintenance.

After completion of the $4.5 million rehabilitation, 90 units would be restricted as affordable housing for 55 years; one unit would be occupied by a resident manager. 32 units would be restricted at 30% of the Area Median Income (AMI) ($20,700 for a family of four), 17 units would be restricted at 50% AMI ($34,500 for a family of four) and 41 units would be restricted at 60% AMI ($41,400 for a family of four).

The Housing Commission's investment in the project would leverage approximately $16.6 million from other financing sources; $6.7 million in federal tax credits, $5.5 million from the State's Multifamily Housing Program (financed from the proceeds of Proposition 46), and $4.4 million in a bond-financed mortgage loan from Washington Mutual. Up to $10 million in bonds issued by the Housing Authority would be outstanding only during construction and would be repaid with proceeds from the State's loan and federal tax credits. These funding sources become available once the projects is built and occupied.

The City's Consolidated Plan identifies large families as an under-served tenant population, and the City's Draft Housing Element for 2005 to 2010 establishes a goal of preserving at least 100 "at risk" housing units per year. If approved, the recommended actions for this project will create 77 affordable units for large families (66 three-bedroom and 11 four-bedroom units), while preserving 91 units of "at risk" affordable housing.

FISCAL CONSIDERATIONS:
The funds are available to make the proposed loan to the project. Since the Housing Commission's FY06 budget was finalized, $1,216,072 in unanticipated Coastal Housing funds have been received and the budget must be amended to use these funds on the project. HOME and Housing Trust Funds will also be used to fund the loan. Approval of the bond inducement and TEFRA resolutions do not commit the Housing Authority to issue bonds. If bonds are ultimately issued, security for repayment of the bonds will be limited to the value of the property and its revenues.

PREVIOUS COUNCIL and/or COMMITTEE ACTIONS:
None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
On January 11, 2006, the Otay-Nestor Planning Group voted to approve the project. The Housing Commission's Loan Committee recommended approval of the loan on January 24, 2006, and the Housing Commission board recommended approval of the requested actions on February 10, 2006.

KEY STAKEHOLDERS & PROJECTED IMPACTS:
The project is being developed by Wakeland Housing and Development Corporation. Wakeland has tentatively selected Washington Mutual and Red Capital Markets as financial participants on the project. The Housing Commission has engaged Public Financial Management and Stradling Yocca Carlson and Rauth to assist in preparing the proposed bond financing.

Fisher/PA

NOTE: See the Housing Authority Agenda of 3/28/2006 for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:39 a.m. – 11:49 a.m.)

MOTION BY HUESO 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.

ITEM-331: Hillcrest Commercial Core Maintenance Assessment District.

(Uptown Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-749) ADOPTED AS RESOLUTION R-301329

Resolution of Intention to form the Hillcrest Commercial Core Maintenance Assessment District and to levy and collect Fiscal Year 2007 Annual Assessments on Hillcrest Commercial Core Maintenance Assessment District.

STAFF SUPPORTING INFORMATION:

On September 30, 2005, a group of property owners in the Hillcrest area petitioned the City to form a new maintenance assessment district on their behalf. The petition was signed by 52% of the property owners in the contemplated assessment district. The purpose of the proposed District is to fund the maintenance, improvement and servicing of public areas to include landscaping, sidewalk sweeping/washing, curb and gutter, trash removal, graffiti abatement and regular security patrols. The requested services would be generally provided along University Avenue from First Avenue to Sixth Avenue while also encompassing Washington to Pennsylvania Streets and Fourth Avenue to Sixth Avenue.

On behalf of the petitioning Hillcrest property owners, City staff has retained SCI Consulting Group to prepare an Engineer's Report for the requested District. This report summarizes the proposed district, describes requested services/associated costs, provides an assessment diagram and apportions property owner assessments (which range from approximately $172 to $5,891 per parcel) based on the level of benefit received. District proponents had the opportunity to review and comment on the Engineer's Report.

The City Council is being asked to authorize the 8 requested actions cited above, with authorizations for actions 5 through 8 contingent upon affirmative findings at the public hearing scheduled for May 16, 2006. If the City Council approves the requested actions, ballots describing the proposed district and the associated assessments will be mailed to all property owners of record within the proposed district boundaries. Property owners can mail or deliver the ballots to the City Clerk. Interested parties may comment at the May 16th public hearing regarding the proposed District.

Ballots will be counted at the conclusion of the hearing. If a majority of property owners supports formation of the District in accordance with State law, the City Council has the discretion to establish the District and levy assessments beginning in Fiscal Year 2007 as described in the Assessment Engineer's Report.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
At the request of the District proponents, the Hillcrest Association (Association) assumed a leadership role in soliciting input from property owners who would be impacted by the proposed District. The Association held two (2) community meetings on August 17, 2005 and September 14, 2005 to solicit input for the proposed District. The Association's outreach efforts also included the following: 1) noticed mail to all property owners who would be impacted by the proposed assessment; 2) public notice in the Daily Transcript; 3) public notice in the Association's monthly newsletter Hillcrest Highlight; 4) personal visits with property owners; and 5) e-mail notice to the impacted property owners.

Upon preliminary approval of the Engineer's report by the City Council, notices/ballots will be prepared and mailed to all property owners of the District who will ultimately vote whether or not they support the formation of the District. Property owners will also vote whether the Hillcrest Association, a non-profit, Section 501(c)(3) organization, or the City should administer the contracts for goods and services for the District. If this action is approved, a public hearing will be scheduled where public testimony will be heard by the City Council.

	FY 2007	Maximum Authorized
REVENUES		
Assessments	$89,950	$89,950
Interest	$0	$0
TOTAL REVENUES	**$89,950**	**$89,950**
EXPENSES		
Personnel	$0	$0
Contractual	$65,575	$65,575
Utilities	$0	$0
Incidentals/Administration	$13,165	$13,165
Likely One-Time Costs		
Special Projects	$3,750	$3,750
Balloting and Formation	$5,000	$5,000
Contingency Reserve	$2,460	$2,460
TOTAL EXPENSES	**$89,950**	**$89,950**
BALANCE	**$0**	**$0**

FISCAL IMPACT:

There is no fiscal impact on General Fund. Approximately $89,950 will be assessed and collected in the Hillcrest Commercial Core Maintenance Assessment District in FY 2007. The proposed assessments will fund an increased level of enhanced services within the District boundaries. If the District is approved by benefiting property owners, assessments will be levied and collected to fund the annual budget.

Fischle-Faulk/Waring/LEO

Staff: Luis E. Ojeda – (619) 533-4246
Hilda Ramirez-Mendoza - Deputy City Attorney

FILE LOCATION: STRT-M-504 FY 2006 (34)

COUNCIL ACTION: (Time duration: 11:50 a.m. – 11:50 a.m.)

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

ITEM-332: Appointments to the San Diego City Employees Retirement System Board of Administration (SDCERS).

(See memorandum from Mayor Sanders dated 3/1/2006.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2006-790) ADOPTED THE APPOINTMENT OF PETER Q DAVIS AS RESOLUTION R-301330
CONTINUED THE APPOINTMENT OF WAYNE KENNEDY TO MONDAY, APRIL 3, 2006

Council confirmation of the following appointments by the Mayor of the City of San Diego to serve as members of the San Diego City Employees Retirement System Board of Administration:

NAME	TERM ENDING
V. Wayne Kennedy (La Jolla, District 1) (Replacing James B. G. Hearty, who has resigned)	March 31, 2009
Peter Q. Davis (La Jolla, District 1) (Replacing James T. Waring, who has resigned)	March 31, 2009

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:21 p.m.)

MOTION BY MADAFFER TO ADOPT THE RESOLUTION AS AMENDED TO APPOINT PETER Q. DAVIS. Second by Maienschein. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY MAIENSCHEIN TO CONTINUE THE APPOINTMENT OF WAYNE KENNEDY TO MONDAY, APRIL 3, 2006, TO ALLOW MR. KENNEDY TO BE PRESENT. 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-333: Authorizing First Amendment to the Retention of Latham & Watkins, LLP for Legal Services for Current and Former City Officials and Staff Related to the Case San Diego Police Officers Association (SDPOA) v. Michael Aguirre, et. al.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-613 Cor. Copy) ADOPTED AS RESOLUTION R-301331

Authorizing and empowering the Mayor to execute, for and on behalf of said City, a First Amended Retainer Agreement, by and between the City of San Diego and Latham & Watkins, for certain legal services regarding the case SDPOA v. Michael Aguirre, et al., USDC Case No. 05cv1581H (POR);

Declaring under the First Amended Retainer Agreement the expenditure of an additional amount not to exceed $500,000 to be set aside, solely and exclusively, for the purpose of providing funds for the above project;

Authorizing the City Auditor and Comptroller to appropriate and transfer funds from the General Fund Unappropriated/Unallocated Reserves to the Public Liability Fund to meet these obligations.

SUPPORTING INFORMATION:

On August 23, 2005, the San Diego Police Officers Association (SDPOA) filed and served a complaint in the case POA v. Michael Aguirre, et. al., USDC Case No. 05cv1581H (POR). The case raises a number of issues related to labor negotiations and retirement issues between the City of San Diego and the SDPOA.

On December 5, 2005, the City Council approved the retention of Latham & Watkins as outside counsel to represent certain current and former City officials and staff, excluding City Attorney Michael Aguirre. The City Attorney is being represented in this action by the law firm of Wehner & Perlman, LLP.

In its December action, the Council authorized the retention in the amount not to exceed $200,000. Latham & Watkins, through its retention, has exhausted the initial funding authorization and will need additional funding to carry the defense of this litigation through to conclusion. The City Attorney proposes to amend the agreement with Latham & Watkins for an additional authorization of not to exceed $500,000. This will bring the total not-to-exceed cost for this representation to $700,000.

This item was heard and additional expenditure authorized by the City Council in Closed Session on January 17, 2006. Non-conflicted employees in the City Attorney's Office shall monitor and direct the firm's work.

FISCAL CONSIDERATIONS:
Authorizes additional $500,000, increasing authorization to a not-to-exceed amount of $700,000 to provide defense to present and former City officials and staff named as defendants in subject litigation.

The costs associated with this action will be allocated to the Public Liability Fund. With this action, the Council will authorize the City Auditor and Comptroller to appropriate and transfer funds from the General Fund Unappropriated/Unallocated Reserves to the Liability Fund to meet these obligations. Any excess revenues as of June 30, 2006, will be used to replenish this reserve.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
Authorized in Special Closed Session on Monday, December 12, 2005, and amended agreement agreed to in Closed Session on January 17, 2006.

Sachs/Froman/DM

Aud. Cert. 2600672.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:26 p.m. – 3:28 p.m.)

MOTION BY MADAFFER TO ADOPT WITH DIRECTION THAT FUNDS SHALL BE ALLOCATED FROM THE GENERAL FUND UNTIL FURTHER REVIEW. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-334: Increased Authorization for Outside Legal Fees.

STAFF'S RECOMMENDATION:

Adopt the following resolutions authorizing attorney's fees for current and former elected officials related to the proceedings of the ongoing financial investigation:

Subitem-A: (R-2006-) ADOPTED AS RESOLUTION R-301332

Increase the authorization for Council President Scott Peters in the amount of $154,331.93 for Sheppard Mullin Richter and Hampton, LLP and $10,000 for Akin Gump Strauss Hauer and Feld, LLP.

Subitem-B: (R-2006-) ADOPTED AS RESOLUTION R-301333

Increase the authorization for Councilmember Toni Atkins in the amount of $207,696.94 for Morrison and Foerster, LLP.

Subitem-C: (R-2006-) ADOPTED AS RESOLUTION R-301334

Increase the authorization for Councilmember Brian Maienschein in the amount of $195,643.23 for Morrison and Foerster, LLP.

Subitem-D: (R-2006-) ADOPTED AS RESOLUTION R-301335

Increase the authorization for Councilmember Jim Madaffer in the amount of $177,231.27 for Akin Gump Strauss Hauer and Feld, LLP.

Subitem-E: (R-2006-) ADOPTED AS RESOLUTION R-301336

Increase the authorization for former Councilmember Ralph Inzunza in the amount of $22,340.00 for the Law Offices of Michael Pancer.

Subitem –F: (R-2006-) ADOPTED AS RESOLUTION R-301338

Increase the authorization for former Mayor Dick Murphy in the amount of $150,069.43 for Sheppard Mullin Richter and Hampton, LLP and $10,000 for Akin Gump Strauss Hauer and Feld, LLP.

Directing the City Attorney to prepare the Resolutions for these actions.

STAFF SUPPORTING INFORMATION:

The Securities and Exchange Commission (SEC), U.S. Attorney's Office and the District Attorney's Office are undertaking investigations into certain financial disclosure practices of the City of San Diego. These investigations are ongoing and certain elected officials have been asked to participate in interviews and proceedings, including compliance with subpoenas.

In a report to the Mayor and City Council dated January 31, 2005, the City Attorney states "in our view it is appropriate for the Mayor and City Councilmembers to have separate counsel to advise them in anticipation of a civil proceeding by the SEC".

Legal firms have been engaged on behalf of several current and former members of the City Council related to these investigations. Due to the complexity of the issues and the large number of documents involved, the City Council authorized $851,000 on June 28, 2005, for legal fees which had been incurred in FY2005 as well as an initial allocation toward anticipated expenditures in FY2006. This authorization was allocated to individual Councilmembers by Council Resolution, as shown in the attached table. At that time, authorization actions were not proposed on behalf of Councilmembers Young, Frye and Inzunza.

The investigations are continuing and submitted invoices have now equaled or exceeded the individual authorizations as reflected in the table. Also, each Councilmember, through their law firm, was asked to anticipate the level of activity through the end of the fiscal year (through June 2006). The estimated amount is identified in the table and includes costs associated with the ongoing investigation as well as legal counsel associated with the processing of invoices in order to comply with numerous public records requests for information related to this legal representation.

In total, this item requests $927,312.80 in additional funding authorization to meet both outstanding invoices ($152,312.80) and potential costs ($775,000) estimated through the end of the fiscal year. If approved, the total authorized amount for these services will be $1,778,312.80. Any funds not required will be returned to the appropriate reserves.

FISCAL CONSIDERATIONS:
The costs associated with this action will be allocated across the City organization (including General Fund and Enterprise Fund activities) based on Full Time Equivalent positions. The City Auditor and Comptroller will appropriate and transfer funds from the General Fund Unappropriated/Unallocated Reserves to the Liability Fund to meet the General Fund portion of these obligations. Any excess revenues as of June 30, will be used to replenish this amount.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
Council previously authorized $851,000 for the legal fees of current and former Councilmembers on June 28, 2005.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
None associated with this action.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):
The following law firms are providing legal counsel on behalf of current and former Councilmembers: Sheppard Mullin Richter & Hampton, LLP for Council President Peters and former Mayor Murphy; Coughlan, Semmer & Lipman, LLP for former Councilmember Zucchet; Morrison & Foerster, LLP for Councilmembers Atkins and Maienschein; Akin Gump Strauss Hauer & Feld, LLP for Councilmembers Madaffer, Peters and former Mayor Murphy; and the Law Offices of Michael Pancer for former Councilmember Inzunza.

Plank/Froman

Aud. Certs. 2600660, 2600661, 2600662, 2600663, 2600664, 2600665, 2600666, and 2600667.

Staff: Ed Plank - (619) 236-6433

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:02 p.m. – 3:25 p.m.)

MOTION BY MADAFFER TO ADOPT SUBITEM A WITH REFERRAL OF THE COST ALLOCATION TO THE CITY ATTORNEY, AUDITOR, CHIEF FINANCIAL OFFICER, AND INDEPENDENT BUDGET ANALYST. Second by Hueso. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY MADAFFER TO ADOPT SUBITEM B WITH REFERRAL OF THE COST ALLOCATION TO THE CITY ATTORNEY, AUDITOR, CHIEF FINANCIAL OFFICER, AND INDEPENDENT BUDGET ANALYST. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-not present, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY MADAFFER TO ADOPT SUBITEM C WITH REFERRAL OF THE COST ALLOCATION TO THE CITY ATTORNEY, AUDITOR, CHIEF FINANCIAL OFFICER, AND INDEPENDENT BUDGET ANALYST. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY MADAFFER TO ADOPT SUBITEM E AND F WITH REFERRAL OF THE COST ALLOCATION TO THE CITY ATTORNEY, AUDITOR, CHIEF FINANCIAL OFFICER, AND INDEPENDENT BUDGET ANALYST. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY ATKINS TO ADOPT SUBITEM D WITH REFERRAL OF THE COST ALLOCATION TO THE CITY ATTORNEY, AUDITOR, CHIEF FINANCIAL OFFICER, AND INDEPENDENT BUDGET ANALYST. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-335: Matter of Attorneys Fees for City of San Diego Current and Former Employees Relating to the Financial Disclosures and Pension Investigation.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-596) ADOPTED AS RESOLUTION R-301337

Authorizing the additional expenditures of an amount not to exceed $450,000 for the purpose of paying attorney's fees for the representation of past and present City employees related to their participation and in interviews or proceedings, including compliance with subpoenas, related to investigations by the Securities and Exchange Commission (SEC), United States Attorney's Office (USAO), San Diego District Attorney's Office (DA) and the City, providing no employee retains more than one law firm to work simultaneously on a given matter;

Authorizing the City Auditor and Comptroller to appropriate and transfer funds from the General Fund Unappropriated/Unallocated Reserves to the Public Liability Fund to meet the General Fund portion of these obligations;

Suspending the authorization for the above attorney's fees if criminal charges are brought against any such past or present employee, and reserving the City's right to terminate payment of fees and seek reimbursement of fees paid in the event that criminal charges are brought against any employee, or if a conviction is obtained;

Directing the City Attorney to prepare the Resolutions for these actions.

STAFF SUPPORTING INFORMATION:

The Securities and Exchange Commission (SEC), U.S. Attorney's Office and the District Attorney's Office are undertaking investigations into certain financial disclosure practices of the City of San Diego. The City is also conducting its own internal investigations, and through retained counsel, has interviewed current and former City employees as part of its internal investigations. These investigations are ongoing, with each agency requesting and/or issuing subpoenas requiring City employees to appear for interview and/or testimony.

In order to facilitate the conduct of necessary interviews and testimony, and yet provide necessary advice to affected City employees, the City Council, acting pursuant to the discretion provided by Government Code Section 995.8, has determined that it is in the best interests of the City to provide independent representation to employees.

Expenditures authorized for the representation thus far total $1,525,000 and was apportioned among a number of represented individuals. Over 40 current and former City employees have requested and/or retained outside legal counsel and will submit or have submitted bills to be reviewed and processed by the City Attorney's Office.

To pay present invoices and to obtain funds to continue to pay invoices for those represented, it is requested that an additional $450,000 be appropriated.

FISCAL CONSIDERATIONS:
The costs associated with this action will be allocated across the City organization (including General Fund and Enterprise Fund activities) based on Full Time Equivalent positions. The City Auditor and Comptroller will appropriate and transfer funds from the General Fund Unappropriated/Unallocated Reserves to the Liability Fund to meet the General Fund portion of these obligations. Any excess revenues as of June 30, will be used to replenish this amount.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
Previous authorizations totaling $1,525,000 were approved as a result of six requests ($250,000) on June 17, 2004; $75,000 on November 14, 2004; $150,000 on January 25, 2005; $200,000 on March 7, 2005; $350,000 on June 28, 2005; and $500,000 on October 11, 2005.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
None associated with this action.

Froman/EP

Aud. Cert. 2600542.

Staff: Ed Plank - (619) 236-6433

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. – 2:58 p.m.)

MOTION BY FRYE TO ADOPT WITH DIRECTION THAT THE FUNDS SHALL BE ALLOCATED FROM THE GENERAL FUND AND REFERRED TO THE CITY ATTORNEY, AUDITOR, CHIEF FINANCIAL OFFICER, AND THE INDEPENDENT BUDGET ANALYST FOR FURTHER ANALYSIS. ANY REVENUES IN EXCESS OF EXPENDITURES SHALL BE USED TO RESTORE DOLLARS BEING TAKEN BY THIS ACTION. SHOULD THERE NOT BE SUFFIECIENT EXCESS REVENUES FOR FY 2006, THE FUNDS TAKEN SHALL BE RESTORED AS PART OF THE FY 2007 BUDGET. Second by Atkins. 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.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 3:31 p.m. in honor of the memory of:

Frias Eiso and Heather Mattia as requested by Council Member Madaffer, and William Bruce Minteer as requested by Council President Peters.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:28 p.m. – 3:31 p.m.)