

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, APRIL 4, 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 10:01 a.m. Council President Peters recessed the meeting at 11:00 a.m. for the purpose of a break. Council President Peters reconvened the meeting at 11:08 a.m. with all Council Members present. Council President Peters recessed the meeting at 11:41 a.m. to convene the Housing Authority. Council President Peters reconvened the regular meeting at 11:42 a.m. with all Council Members present. Council President Peters recessed the meeting at 11:43 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:03 p.m. with Council Member Maienschein not present. The meeting was recessed by Council President Peters at 3:09 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 3:16 p.m. with all Council Members present. The meeting was recessed by Council President Peters at 3:20 p.m. for the purpose of a break and to reconvene the Redevelopment Agency simultaneously with the Council Meeting thereafter. Council President Pro Tem Young reconvened the regular meeting at 3:39 p.m. with Council President Peters not present. Council President Pro Tem Young adjourned the meeting at 3:42 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/pr)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

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

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

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

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-2:

Don Stillwell commented on better use of resources in the City of San Diego.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-3:

Sandy Summers commented on civil rights.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:28 a.m. – 10:30 a.m.)

PUBLIC COMMENT-4:

Al Strohleim commented on block party respite.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:33 a.m.)

PUBLIC COMMENT-5:

Linda Smith wished to request support for May as Mental Health and Housing Month.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:35 a.m.)

PUBLIC COMMENT-6:

Stephen Kerch commented on the Housing Commission and the Rancho DelRioLTD contract.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-7:

Ron Boshun expressed himself on the subject of the City Council's actions.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-8:

Jarvis Ross wished to commend a number of the City Council Members for their service and hard work rendered on behalf of the City of San Diego.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-9:

Katheryn Rhodes commented on the categorical exclusion for SF regulations in the Coastal Outlay Zone.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:45 a.m. – 10:48 a.m.)

PUBLIC COMMENT-10:

John McNab commented on the swinging pendulum as it relates to City government.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:49 a.m. – 10:51 a.m.)

PUBLIC COMMENT-11:

Michael Bell wished to commend the City Council for their service and hard work, and expressed his desire to attend upcoming committee meetings.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:52 a.m. – 10:53 a.m.)

PUBLIC COMMENT-12:

Chris Clifford commented on the elections held in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:54 a.m. – 10:57 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council President Peters stated that he has contacted the San Diego Police Department regarding the arrest and detention of Sandy Summers, and that any questions concerning this incident should be directed to the Police Department.

FILE LOCATION: MINUTES

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

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.



[ITEM-30:](#) Financial Literacy Month.

COUNCIL PRESIDENT PRO TEM YOUNG'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-765) ADOPTED AS RESOLUTION R-301342

Proclaiming the month of April 2006, to be "Financial Literacy Month" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:03 a.m. – 10:08 a.m.)

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



[ITEM-31:](#) Lupus Alert Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-812) ADOPTED AS RESOLUTION R-301343

Commending the Lupus Foundation of Southern California for its continued commitment to educate and support those residents living with lupus in San Diego and Imperial Counties;

Proclaiming April 4, 2006, to be "Lupus Alert Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:09 a.m. – 10:15 a.m.)

MOTION BY FRYE 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 Amendments to Agreements for Time Extensions with Caltrans for State Route 56 Middle Design and State Route 56/Camino Ruiz Interchange.

(Pacific Highlands Ranch, Torrey Highlands, and Rancho Peñasquitos Community Areas. District 1.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinances which were introduced on 3/21/2006, Item 54. (Council voted 7-0. Councilmembers Peters, Faulconer, Atkins, Young, Frye, Madaffer, and Hueso voted yea. Councilmember Maienschein not present):

Subitem-A: (O-2006-95 Cor. Copy) ADOPTED AS
ORDINANCE O-19475 (New Series)

Authorizing the Mayor to execute the amendment to the cooperative agreement with Caltrans for the design of the middle section of State Route 56, thereby extending the termination date of the agreement by one year to December 31, 2006.

NOTE: 6 votes required.

Subitem-B: (O-2006-96 Cor. Copy) ADOPTED AS

ORDINANCE O-19476 (New Series)

Authorizing the Mayor to execute the amendment to the cooperative agreement with Caltrans for the design and construction of the Camino Ruiz Interchange, thereby extending the termination date of the agreement by one year to December 31, 2006.

NOTE: 6 votes required.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:59 a.m. – 11:00 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCES. 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-51: Establishing a Commission on Gang Prevention and Intervention.

(See City Manager Report CMR-05-192; The City of Los Angeles, Department of Urban Affairs December 2004 Report; Councilmember Young's July 21, 2005, Article "The Gang Problem in San Diego"; Council Policy 000-13; and memorandum from Andrea Tevlin dated 3/15/2006.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 3/21/2006, Item 55. (Council voted 7-0. Councilmembers Peters, Faulconer, Atkins, Young, Frye, Madaffer, and Hueso voted yea. Councilmember Maienschein not present):

(O-2006-38 Cor. Copy 3) ADOPTED AS ORDINANCE O-19477 (New Series)

Amending Chapter 2, Article 6, of the San Diego Municipal Code by adding Division 19, titled City of San Diego Commission on Gang Prevention and Intervention, and adding Sections 26.1901, 26.1902, and 26.1903, all relating to the City of San Diego Commission on Gang Prevention and Intervention.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:59 a.m. – 11:00 a.m.)

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

- * ITEM-52: Extending Time Limit Deadlines for the Centre City and Horton Plaza Redevelopment Project Area.

(See Centre City Development Corporation Report CCDC-06-05. District 2.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinances which were introduced on 3/21/2006, Item 56. (Council voted 6-1. Councilmembers Peters, Faulconer, Atkins, Young, Madaffer, and Hueso voted yea. Councilmember Frye voted nay. Councilmember Maienschein not present):

Subitem-A: (O-2006-100) ADOPTED AS ORDINANCE O-19478 (New Series)

Amending the Redevelopment Plan for the Horton Plaza Redevelopment Project Area extending the plan effectiveness deadline, repayment of indebtedness deadline and tax increment receipt deadline.

Subitem-B: (O-2006-101) ADOPTED AS ORDINANCE O-19479 (New Series)

Amending the Redevelopment Plan for the Centre City Redevelopment Project Area extending the plan effectiveness deadline, repayment of indebtedness deadline and tax increment receipt deadline.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:59 a.m. – 11:00 a.m.)

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

* ITEM-53: College Grove Condos Rezone.

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

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 3/20/2006, Item 204, Subitem B. (Council voted 7-0. Councilmembers Peters, Faulconer, Atkins, Young, Frye, Madaffer, and Hueso voted yea. Councilmember Maienschein not present):

(O-2006-92) ADOPTED AS ORDINANCE O-19480 (New Series)

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.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:59 a.m. – 11:00 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. 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-54: Stella-Project No. 65484 Rezone.

(Midway/Pacific Highway Corridor Community Plan Area. District 2.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 3/21/2006, Item 330, Subitem C. (Council voted 5-2. Councilmembers Peters, Faulconer, Atkins, Young, and Madaffer voted yea. Councilmembers Frye and Hueso voted nay. Councilmember Maienschein not present):

(O-2006-62 Cor. Copy) ADOPTED AS ORDINANCE O-19481 (New Series)

Changing a 0.89 acre site, located at 2015 Hancock Street, in the Midway/Pacific Highway Corridor Community Plan Area, in the City of San Diego, California, from the IS-1-1 Zone (previously referred to as the M-SI Zone), into the RM-4-10 Zone (previously referred to as the R-400 Zone), as defined by San Diego Municipal Code Section 131.0406.

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

FILE LOCATION: LUP-Stella, 11/29/05 (65)

COUNCIL ACTION: (Time duration: 11:29 a.m. – 11:36 a.m.)

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



ITEM-55: Extension of Banking Services Contract with Bank of New York.

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2006-106) INTRODUCED, TO BE ADOPTED ON
TUESDAY, APRIL 18, 2006

Introduction of an Ordinance approving an extension to the Master Agreement between the City of San Diego and the Bank of New York for Securities Clearance and Safekeeping Services.

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

STAFF SUPPORTING INFORMATION:

The City of San Diego issued a Banking Services Request for Proposal (RFP) dated July 2000, which ultimately resulted in Master Agreements with San Diego Metropolitan Credit Union, commencing 5/15/01, and Bank of America and Bank of New York, commencing 12/1/01.

Bank of New York was selected to provide Securities Clearance and Safekeeping Services for a total cost of \$4,000 per month. The annual cost incurred has not exceeded \$48,000 in any given year.

Due to severe staffing shortages in the Office of the City Treasurer, an extension of the existing contract is recommended in order to ensure a thorough and timely RFP process. Under normal circumstances, the City's banking services are re-bid every five (5) years and a complete analysis of each department's banking needs are quantified and represented, along with the City's various information systems and services requirements. Once a vendor is selected, system conversions, parallel testing and implementation can take up to four months with fully dedicated staffing from the Office of the City Treasurer, Office of the City Auditor and Comptroller, all related City departments and San Diego Data Processing Corporation.

City Charter §99 provides that no contract, agreement or obligation extending for a period of more than five years may be authorized except by ordinance adopted by a two-thirds' majority vote of the members elected to the Council after holding a duly noticed public hearing.

FISCAL CONSIDERATIONS:

Extension of the Bank of New York Securities Clearance and Safekeeping Services contract will be at no additional cost to the City and will actually result in a 10% cost savings based on the newly proposed fee structure for this extension. Synchronizing the expiration dates of all three contracts to 12/1/07 and combining the subsequent procurement process will also provide a cost savings through economies of scale. Funding is available in the current Fiscal Year 2006 and the proposed Fiscal Year 2007 operating budget.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Bank of New York

Granewich/Goldstone

Staff: Kent Morris - (619) 533-6313
Mark D. Blake - Chief Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:09 a.m. – 11:21 a.m.)

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

ITEM-56: Extension of Banking Services Contract with San Diego Metropolitan Credit Union.

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2006-108) INTRODUCED, TO BE ADOPTED ON
TUESDAY, APRIL 18, 2006

Introduction of an Ordinance approving an extension to the Master Agreement between the City of San Diego and the San Diego Metropolitan Credit Union for Automated Clearing House Services.

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

STAFF SUPPORTING INFORMATION:

The City of San Diego issued a Banking Services Request for Proposal (RFP) dated July 2000, which ultimately resulted in Master Agreements with San Diego Metropolitan Credit Union, commencing 5/15/01, and Bank of America and Bank of New York, commencing 12/1/01.

San Diego Metropolitan Credit Union was selected to provide Automated Clearing House (ACH) Payroll banking services for a fixed fee of \$35 per payroll/pension file and additional fees for any exception or returned items. The annual cost incurred has not exceeded \$2,500 in any given year.

Due to severe staffing shortages in the Office of the City Treasurer, an extension of the existing contract is recommended in order to ensure a thorough and timely RFP process. Under normal circumstances, the City's banking services are re-bid every five (5) years and a complete analysis of each department's banking needs are quantified and represented, along with the City's various information systems and services requirements. Once a vendor is selected, system conversions, parallel testing and implementation can take up to four months with fully dedicated staffing from the Office of the City Treasurer, Office of the City Auditor and Comptroller, all related City departments and San Diego Data Processing Corporation.

As a cost savings measure, it is also recommended that the ACH Payroll services contract be synchronized with the other two (2) banking contracts to expire on 12/1/07. Historically, all contract expiration dates have been synchronized through the banking services RFP process.

However, due to the prior failed conversion and implementation with Wells Fargo Bank in 2001, and subsequent selection of Bank of America, the expiration dates of the contracts became mismatched. Re-synchronizing this effort will eliminate duplicative, dedicated staff time and encourage competitive vendor pricing.

City Charter §99 provides that no contract, agreement or obligation extending for a period of more than five years may be authorized except by ordinance adopted by a two-thirds' majority vote of the members elected to the Council after holding a duly noticed public hearing.

FISCAL CONSIDERATIONS:

Extension of the San Diego Metropolitan Credit Union ACH Payroll banking services contract will be at no additional cost to the City and the original pricing structure will remain in effect during the term of the extension. Synchronizing the expiration date with the other two contracts to 12/1/07 and combining the subsequent procurement process will also provide a cost savings through economies of scale. Funding is available in the current Fiscal Year 2006 and the proposed Fiscal Year 2007 operating budget.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

San Diego Metropolitan Credit Union

Granewich/Goldstone

Staff: Kent Morris - (619) 533-6313
Mark D. Blake - Chief Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:09 a.m. – 11:21 a.m.)

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

* ITEM-100: Right of Entry License Agreement Between the City of San Diego and San Diego Unified Port District.

(Marina Community Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-787) ADOPTED AS RESOLUTION R-301344

Authorizing the Mayor, or his designee, to execute an agreement with the San Diego Unified Port District (Port) to allow the City to remove a network of groundwater monitoring wells at the former Central Police Headquarters as required by DEH, under the terms and conditions set forth in the Right of Entry License Agreement;

Declaring that this project is statutorily exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15268 because it is a ministerial project of the City.

STAFF SUPPORTING INFORMATION:

The Right of Entry License Agreement presented for approval before the City Council will permit the City and the City's contracted service providers to access property that is located within San Diego Unified Port District tidelands. The agreement covers a 3-year period commencing July 1, 2005, and ending June 30, 2008;

The subject property, located at 801 West Market Street, is the location of the former City of San Diego Central Police Headquarters. The City operated a fueling station at this location for many years and is now responsible for the assessment and mitigation of a release of petroleum hydrocarbons that occurred from underground fuel tanks at the station;

The City has taken necessary actions to assess the extent of contamination and perform required remediation activities to cleanup soil and groundwater contamination at the site. The City has obtained closure of the unauthorized release case opened by the County of San Diego Department of Environmental Health at the site, but must remove a network of groundwater monitoring wells that remain on site in order to comply with the case closure determination letter. The City cannot proceed with performing the necessary well removal activities until the Right of Entry Agreement has been adopted.

FISCAL CONSIDERATIONS:

While there is no fiscal impact by virtue of this agreement, the City agrees to indemnify the Port District for damages or injuries caused by the City in performing work under the agreement. The City's Environmental Consultant and Drilling Contractor have agreed to indemnify the City for damages or injuries they cause while performing work under their respective contracts and have agreed to provide insurance as required by the City.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None. There are no known groups expressing either support or opposition to this project.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

San Diego Unified Port District: Requires executed Right of Entry Agreement to enter the former Central Police Headquarters facility, which is located on Port property.

County of San Diego Department of Environmental Health (DEH): State regulations require City to remove monitoring wells at the former Central Police Headquarters property. The DEH is the oversight agency.

Geocon, Inc.: City's environmental consultant will be on-site to direct well destruction work.

WDC Exploration and Wells: City's drilling services provider (pending award) will be on-site to perform well destruction work.

Heap/Haas/TO

Staff: Theodore W. Olson – (858) 573-1266
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:59 a.m. – 11:00 a.m.)

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



ITEM-101: La Jolla Alta Master Council Retention of Outside Counsel.

(La Jolla Alta Community Area. District 1.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-656) ADOPTED AS RESOLUTION R-301345

Authorizing the City Attorney to execute a retainer agreement with the law firm of Lasry Laube Byer & Valdez, pursuant to the terms and conditions of that retainer agreement, dated November 2, 2005, to serve as outside counsel in connection with La Jolla Alta litigation;

Authorizing the City Auditor and Comptroller to transfer within the General Fund 100 the sum of \$325,000 to provide funds for the above retainer agreement and expend said funds as requested.

SUPPORTING INFORMATION:

The City retained Thomas Laube of Sandler Lasry Laube Byer & Valdez for legal services in defense of La Jolla Alta Master Council v. City of San Diego, et al., San Diego Superior Court Case No. GIC 822281. This action seeks an amount not to exceed \$325,000 from the Public

Liability Fund for representation of the City by Sandler Lasry Laube Byer & Valdez relating to litigation assistance. This matter was approved in Closed Session on October 25, 2005.

Karlin

Aud. Cert. 2600584

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:21 a.m. – 11:29 a.m.)

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

* ITEM-102: Settlement of Personnel Claim to Michelle Krug, et al., City File No. LX05-7771-1217.

(District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-822) ADOPTED AS RESOLUTION R-301346

Authorizing the Mayor, or his designee, to pay up to the total sum of \$150,000 in settlement of each and every claim against the City, its agents and employees, in the Superior Court Case No. GIC 835677, entitled Michelle Krug v. City of San Diego, resulting from the Personnel Claim of Michelle Krug;

Authorizing the City Auditor and Comptroller to issue one check in the amount of \$150,000 payable to Michelle Krug and her attorney of record, Paula Rosenstein.

STAFF SUPPORTING INFORMATION:

This constitutes the complete and final settlement of Personnel Claim which arise from an incident which occurred on July 1, 2002.

This settlement and payment were heard and approved by the City Council in Closed Session on November 29, 2005.

Irvine/Lopez/PY

Aud. Cert. 2600680.

Staff: Peter Yee – (619) 533-6188
Carra Lassman Rhamy - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:59 a.m. – 11:00 a.m.)

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



ITEM-103: Sunshine Week.

MAYOR SANDERS' AND COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-811) ADOPTED AS RESOLUTION R-301347

Commending and thanking the Linda Vista Civic Association for their commitment to open government in San Diego;

Proclaiming March 12-18, 2006, to be “Sunshine Week” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:37 a.m. – 11:37 a.m.)

MOTION BY FRYE 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-104: 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-2006-766) ADOPTED AS RESOLUTION R-301348

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: 10:59 a.m. – 11:00 a.m.)

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

- * ITEM-105: 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-2006-702) ADOPTED AS RESOLUTION R-301349

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: 10:59 a.m. – 11:00 a.m.)

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



ITEM-330: Loring Street Neighborhood Project.

Matter of approving, conditionally approving, modifying or denying a request for a Coastal Development Permit and Public Right-of-Way Vacation to vacate approximately 33-feet of excess dedicated public Right-of-Way on the north side of Loring Street between Cass Street and Foothill Boulevard with no physical change to the existing curb, gutter and paved street improvements within the Coastal Overlay Zone (non-appealable area), Coastal Height Limit, and Beach Parking Impact Overlay Zone all within the boundaries of the Pacific Beach Community Plan area.

(CDP No. 240154/Public R-O-W Vacation No. 22191/Project No. 11319. Pacific Beach Community Plan Area. District 2.)

(Continued from the meeting of March 6, 2006, Item 202, at the request of Councilmember Faulconer, for full Council.)

NOTE: Hearing open. No testimony taken on 3/6/2006.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2006-689)

ADOPTED AS RESOLUTION R-301352

Adoption of a Resolution certifying findings with respect to Coastal Development Permit No. 240154;

Granting Coastal Development Permit No. 240154 to City of San Diego, a Municipal corporation, Owner, and John S. Fisher, Representative of 49 Individuals, Permittees, pursuant to San Diego Municipal Code (SDMC) Section 125.0901, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

Subitem-B: (R-2006-688) ADOPTED AS RESOLUTION R-301353

Adoption of a Resolution ordering vacated the portion of Loring Street, as described in the legal description marked as Exhibit "A," and as more particularly shown on Drawing No. 20235-B, marked as Exhibit "B," which by this reference incorporated herein and made a part hereof.

OTHER RECOMMENDATIONS:

Planning Commission on September 29, 2005, voted 6-1 to recommend to the City Council that they approve staff's recommendation; no opposition.

Ayes: Steele, Chase, Schultz, Garcia, Ontai, Otsuji

Nays: Griswold

The application is an effort by 53 joint applicants owning property along this street frontage, the City mailed a Notice of Application and subsequent Notices of public hearing to the required ownership and tenant lists and the Pacific Beach Community Planning Committee voted to recommend denial of the application by a vote of 7-4-0 on December 22, 2003. The Planning Group expressed concern that the vacation could adversely affect the "park like setting of the street" and how the appearance of new development on the front of existing homes would affect the street scene.

STAFF SUPPORTING INFORMATION:

A vacation of a public right-of-way requires City Council approval under a Process 5 procedure. The right-of-way for Loring Street came from the separate subdivisions on the north and south sides that resulted in an excessive dedicated right-of-way of 125-feet which includes the developed street at a width of 52-feet. The resultant curb-to-property-line distance on the north side is 49-feet and on the south side is 24-feet.

There was no public opposition at the Planning Commission.

The applicants requested that this item not be scheduled for a City Council hearing until an elected representative was seated for this Council District.

FISCAL IMPACT:

All costs associated with the processing of the project application are borne by the applicant through a deposit account with the City of San Diego.

Waring/Halbert/RMK

LEGAL DESCRIPTION:

The project site is located on the north side of Loring Street between Cass Street and Foothill Boulevard in the Cass Street Planned District and RS-1-7 and RM-1-1 zones of the Pacific Beach Community Plan area.

NOTE: This activity is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15061(B)(3).

Staff: Robert Korch – (619) 446-5229
Shannon M. Thomas – Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:09 p.m. – 2:30 p.m.)

Testimony in favor by Lynne Heidel, Mark Irmer, Edgar Bondearant, Albert Monteverde, and Paul Ross.

MOTION BY FAULCONER TO ADOPT THE RESOLUTIONS. 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-331: Door of Hope.

Matter of approving, conditionally approving, modifying or denying Conditional Use Permit No. 301798, to continue the uses (a child care facility, educational facility, residential care facility, intermediate care and nursing facility, and transitional housing) at the Salvation Army Door of Hope facility. The existing Conditional Use Permit No. 94-0273 for the facility expired on August 25, 2004. The proposed new Conditional Use Permit includes a provision to demolish three existing buildings (the administration building and two “cottages”) and construct a four-story apartment building containing 40 one-, two-, and three-bedroom apartments for very-low income and low income families. The project would be setting aside one-third of the apartments for families with income at or below 30 percent of the Area Median Income (AMI). The remaining two-thirds would be set aside for families with income at or below 50 percent AMI. The 7.01-acre site is located at 2799 Health Center Drive on the southeast corner of Health center Drive and Vista Hill Avenue in the RM-4-10 Zone (a multi-family residential zone) within the Serra Mesa Community Plan.

(Project No. 93626. Serra Mesa Community Plan Area. District 6.)

STAFF’S RECOMMENDATION:

Adopt the following resolution:

(R-2006-804) GRANTED PERMIT, ADOPTED AS RESOLUTION R-301354

Adoption of a Resolution certifying findings supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference, with respect to Conditional Use Permit No. 301798;

Granting Conditional Use Permit No. 301798 to the Salvation Army, a California Corporation, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution;

That this activity is exempt from CEQA pursuant to Sections 15061(b)(3), 15302, and 15332 of the State CEQA Guidelines.

OTHER RECOMMENDATIONS:

The Salvation Army Door of Hope facility contains transitional housing in accordance with Section 112.0509(b) of the San Diego Municipal Code (SDMC). A Planning Commission recommendation is not applicable to transitional housing facilities pursuant to Section 141.0313 of the SDMC.

The Serra Mesa Planning Group on February 16, 2006, voted unanimously (10-0-0) to support the Door of Hope project (Attachment 5).

STAFF SUPPORTING INFORMATION:

The existing CUP No. 94-0273 for the Salvation Army Door of Hope facility expired on August 25, 2004. The facility is located on a 7.01-acre irregularly shaped parcel on the southeast corner of Health Center Drive and Vista Hill Avenue (Attachment 2) in the RM-4-10 Zone (a multi-family residential zone) within the Serra Mesa Community Plan area.

The existing facility was originally approved on August 16, 1962, under CUP No. 5017 and amended on July 15, 1983, to add a day-care facility under CUP No. C-18035. On August 11, 1994, under CUP No. 94-0273 (Attachment 9), the permit was amended to add a multi-purpose building, and expand the existing dining and kitchen. The 11 building facility is home to four programs serving children, adolescent mothers, seniors, and homeless families (Attachment 3). A CUP is required for the current uses (a child care facility, educational facility, residential care facility, intermediate care and nursing facility, and transitional housing). The Serra Mesa Community Plan designates the site for commercial visitor and institutional use, and the existing and proposed uses would be consistent with these designations.

The application includes a provision to demolish three existing buildings (the administration building and two “cottages”) and construct a four-story apartment building containing 40 one-, two-, and three-bedroom (for-rent) apartments for very-low income and low income families (Attachment 6). The proposed project would conform to the Council Policy 600-27 for the Affordable/In-Fill Housing Expedite Program, by setting aside one-third of the apartments for families with income at or below 30 percent of the Area Median Income (AMI). The remaining two-thirds would be set aside for families with income at or below 50 percent AMI. The proposed residential building is permitted by right under the multi-family residential zone and is requesting no deviations from the regulations of the underlying zone.

FISCAL CONSIDERATIONS:

On April 6, 2006, an application is due to the State for the Multifamily Housing Program (MHP) 2006 Funding Round B-7. The Salvation Army is proposing to raise \$13,373,198 in capital funds for the proposed 40 unit apartment building, which includes MHP funds, Low-Income Housing Tax Credits (LIHTC), a loan from the Centre City Development Corporation (CCDC), Naval Training Center settlement funds, and Community Development Block Grant (CDBG) funds (attachment 4).

Waring/Halbert/JAP

NOTE: This project is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), and this project is exempt from CEQA pursuant to State CEQA Guidelines Section 15302, and Section 15332.

Staff: Jeffrey A. Peterson – (619) 446-5237
Shannon M. Thomas– Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:32 p.m. – 2:51 p.m.)

Testimony in opposition by Janice Johnston.

Testimony in favor by Kip Howard.

MOTION BY FRYE TO ADOPT THE RESOLUTION TO GRANT THE PERMIT.
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-332: Two actions related to Disposition and Development Agreement (DDA)
for the CentrePoint Project within the Crossroads Redevelopment Project Area.

(See Redevelopment Agency Report RA-06-08/RTC-06-019. Eastern Area of the
Mid Cities Communities Community Planning Area. District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2006-724) ADOPTED AS RESOLUTION R-301355

Approving the disposition of certain leasehold interests within the Crossroads
Redevelopment Project area to Centrepont, LLC; approving the Disposition and
Development Agreement pertaining thereto; and making certain findings with
respect to such transfer.

Subitem-B: (R-2006-759) ADOPTED AS RESOLUTION R-301356

Certifying the Disposition and Development Agreement (DDA) and related
actions is adequately addressed in the Mitigated Negative Declaration (MND) and
there is no change in circumstance, additional information, or project changes
and, consequently, the approval of the DDA and related actions does not warrant
additional environmental review per CEQA Guidelines Section 15162.

STAFF SUPPORTING INFORMATION:

The site of the proposed Centrepont project is currently occupied by commercial and office
space, a stand alone restaurant and a nine unit apartment building. The Developer is proposing to
demolish the existing buildings and develop a pedestrian-oriented mixed-use project that
incorporates 312 for-sale residential dwelling units consisting of 97 townhouses, 204 residential
flats (47 affordable) and 11 live/work units, and approximately 4,000 square feet of retail space.
The estimated total project cost is approximately \$110 million.

Fifteen percent of the proposed 312 units, or 47 units, will be affordable in perpetuity. All of the affordable units will be affordable to families earning 100% of Area Median Income (AMI). The 15% affordability level exceeds the City's inclusionary housing requirement of 10% and complies with the Redevelopment Agency's project area-wide inclusionary requirement of 15%. The proposed DDA states that the Agency will subsidize the affordable units in the maximum aggregate amount of \$5,245,000. The unit subsidy for the 47 affordable units is approximately \$111,595 per unit or \$78,283 per bedroom.

The Developer successfully negotiated leasehold amendments with all of the business tenants that occupy the Site. The DDA includes a provision for Agency assistance regarding leasehold acquisitions, if necessary. The Developer has successfully reached financial agreements with all of the residential tenants regarding relocation. The Redevelopment Agency approved the Replacement Housing Plan for the project on November 29, 2005.

FISCAL CONSIDERATIONS:

The proposed DDA states that the Agency will subsidize the affordable units in the form of a Developer advance/loan, in the maximum aggregate amount of \$5,245,000, plus interest. The total project cost is approximately \$110 million and the project is projected to generate approximately \$1 million in new gross tax increment per year. The Developer's advance/loan will be repaid from the Crossroads Project Area's Low and Moderate Income Housing Fund. Simple interest on the outstanding balance of the Agency obligation will accrue at a rate of 7% per year. Interest on the loan will begin at the issuance of the certificate of occupancy for all the affordable units, expected to occur July 2009. If the affordable units are sold for more than anticipated, the Agency will receive a credit against its subsidy. The Developer has agreed to deposit \$100,000 with the Agency as security for the performance of their obligations under the DDA.

PREVIOUS AGENCY and/or COMMITTEE ACTION:

- On June 21, 2005, the Agency approved an Exclusive Negotiation Agreement (ENA).
- On November 29, 2005, the Agency approved the Replacement Housing Plan.
- On December 16, 2005, the Affordable Housing Collaborative Executive Loan Committee voted to approve the allocation of \$5,245,000 for the project.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS:

- On March 24, 2005, an owner participation letter was sent to businesses and residential tenants. Two written responses to the letter were received and they indicated a desire to re-enter into the project or re-enter at a different location within the Project Area.
- On September 13, 2005, the Eastern Area Planning Committee voted 10-1 to recommend approval of the project's entitlements and related actions.

- On December 8, 2005, the Crossroads PAC reviewed the terms of the proposed DDA and voted 10-0-1 to recommend that the Agency enter into a DDA.

On January 26, 2006, the Planning Commission approved the entitlements for the project.

KEY STAKEHOLDERS and PROJECT IMPACTS:

The managing members of CentrePoint, LLC, are Douglas Wilson Development (Douglas P. Wilson, President and CEO) and LB EI Cajon, a Lehman Brothers Entity (Harry Bruni, Managing Director). The Attorneys are Lynn Heidel and Dana Schiffman of Allen Matkins. The Architect is KTGy Group (James Thoms CEO and Tricia Esser CFO). The Civil Engineer is Project Design Consultants (Managing Principals; Greg Shields, Bill Dick and Rex Plummer). The Landscape Architect is Wallace, Roberts & Todd. The Planning & Community Consultant is MetroPlan LLC (Rich Miller, President).

Ostrye/Waring

Staff: Tracy Reed - (619) 533-7519
Susan Y. Cola - Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda of 4/4/2006 for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:21 p.m. – 3:37 p.m.)

Testimony in favor by Douglas Wilson.

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



ITEM-333: Repeal of Debt Incurrence Time Limit Southcrest Redevelopment Project Area.

(See Southeastern Economic Development Corporation Report No. SEDC-06-002. Southeastern San Diego Community Area. District 8.)

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

Introduce the following ordinance:

(O-2006-105) INTRODUCED, TO BE ADOPTED ON TUESDAY,
APRIL 18, 2006

Introduction of an Ordinance eliminating the time limit for establishing loans, advances or indebtedness to carry out the Redevelopment Plan for the Southcrest Redevelopment Project.

SUPPORTING INFORMATION:

That the City Council adopts an ordinance to eliminate the time limit for establishing loans, advances or indebtedness to carry out the Redevelopment Plan for the Southcrest Redevelopment Project Area.

That the Agency approves payment of the statutory pass through triggered by the SB 211 election to the affected taxing agencies.

FISCAL CONSIDERATIONS:

The Agency is required to make statutory pass through payments to affected taxing agencies pursuant to Section 33607.7 if the CRL, beginning Fiscal Year 2005-2006. The preliminary calculation of the statutory pass through is shown in the attached schedule as Exhibit I.

PREVIOUS COUNCIL ACTIONS:

On April 14, 1986, the City adopted Ordinance No. 0-16622 (New Series), approving and adopting a Redevelopment Plan for the Southcrest Redevelopment Project.

On November 28, 1994, the City adopted Ordinance No. 0-18128 (New Series), amending the Southcrest Redevelopment Plan to establish time limits in conformance with the California Community Redevelopment Law (CRL), Section 33333.6 of the Health and Safety Code Section 33000, et seq.

COMMUNITY PARTICIPATION & PUBLIC OUTREACH EFFORTS:

Notification to the affected taxing agencies and public noticing will be completed at least 20 days before the adoption date of an Ordinance amending time limits in the Redevelopment Plan for the Southcrest Redevelopment Project.

KEY STAKEHOLDERS:

The affected taxing agencies: San Diego County General Fund; San Diego Unified School District; San Diego Community College; County School Service; County School Service - Capital Outlay; Children's Institutions Tuition; Regional Occupational Centers; Carlsbad Project; Educational Revenue Augmentation Fund; San Diego Unified County School Building Aid; San Diego City; CWA City of San Diego; San Diego Unified Port District.

Smith

NOTE: See the Redevelopment Agency Agenda of 4/4/2006 for a companion item.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:52 p.m. – 3:05 p.m.)

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



ITEM-334: Preliminary Bond Items and Loan for Alabama Manor Apartments.

(See San Diego Housing Commission Report No. HAR06-005. Greater North Park Community Area. District 3.)

SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-791) ADOPTED AS RESOLUTION R-301350

Approving the issuance of Bonds by the Housing Authority or the City of San Diego for the Alabama Manor 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:

Community Housing Works (CHW) wants Housing Authority assistance to acquire, rehabilitate, and provide affordability to the senior housing units. CHW is a California 501(c)(3) nonprofit corporation established in 2002 by the merger of Community Housing of North County (founded 1988) and San Diego Neighborhood Housing Services (founded 1982). CHW has participated in the development of over 1,250 affordable rental housing units in San Diego and has collaborated with the Housing Commission on other successful projects. Alabama Manor was developed under a Conditional Use Permit that permitted 67 units of elderly housing. There are no affordability restrictions on the project at this time. CHW intends to provide 55 years of housing affordability and the project will be rehabilitated to address its deferred maintenance as needed as well as increasing its energy efficiency and to enhance site accessibility to meet the needs of the disabled resident population.

After completion of the \$1,096,000 rehabilitation, 66 units would be restricted as affordable housing for 55 years; one unit would be occupied by a resident manager. Fourteen units would be restricted at 30% of the Area Median Income (AMI) (\$16,550 for a family of two), 10 units would be restricted at 35% AMI (\$19,300 for a family of two) and 42 units would be restricted at 60% AMI (\$33,100 for a family of two).

The Housing Commission's investment in the project would leverage approximately \$7,227,189 from other financing sources; \$3,073,008 in federal tax credits, \$2,653,611 from the State's Multifamily Housing Program (financed from the proceeds of Proposition 46), and \$1,297,800 in a bond-financed mortgage loan. Approximately \$4.4 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, which would become available once the project is rehabilitated.

The proposed development will address housing priorities identified in the Consolidated Plan by providing accessible units as long term affordable housing for the benefit of eligible low-income seniors and disabled adults. If approved, the recommended actions for this project will create 66 affordable units for senior households (1 - Studio Unit, 60 one-bedroom and 5 two-bedroom units), while preserving 66 units of elderly housing and providing 55 years of affordability.

FISCAL CONSIDERATIONS:

HOME and Housing Trust Funds are available to make the proposed loan to the project. 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:

The project was approved 9-0-0 at the March 6, 2006, meeting of the Urban Design Project Review Committee of the Greater North Park Planning Committee. The project is anticipated to be presented at the March 21, 2006, meeting of the Greater North Park Planning Committee.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The sellers of the property are Ronald A. Crampton and Michael J. Hall. The buyer is Community Housing Works, a 501(c)(3) nonprofit public benefit corporation. The Housing Commission has engaged CSG Advisors and Stradling Yocca Carlson & Rauth to represent the Housing Authority as financial advisor and bond counsel on the proposed bond transaction.

Fisher/Morris

NOTE: See the Housing Authority Agenda of 4/4/2006 for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:37 a.m. – 11:41 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-335:](#) Two actions related to Tobacco Settlement Revenue Securitization.

(See Report to the City Council No. 06-033.)

STAFF'S RECOMMENDATION:

Introduce the ordinance in Subitem A and adopt the resolution in Subitem B:

Subitem-A: (O-2006-) CONTINUED TO MONDAY, APRIL 24, 2006

Introduction of an Ordinance approving an ordinance (a) approving the form and authorizing the execution and delivery of the Sale Agreement between the City of

San Diego (the "City") and the Corporation; (b) approving and acknowledging the form of the Declaration and Agreement of Trust between the Corporation and a Delaware Trustee to be named therein; (c) approving and acknowledging the form of the Indenture between the Corporation and an Indenture Trustee to be named therein; (d) approving and acknowledging the form of the Bond Purchase Contract between the Corporation and Citigroup Global Markets Inc.; (e) approving and acknowledging the form of the Continuing Disclosure Undertaking of the Corporation; (f) approving and acknowledging the form of the Preliminary Offering Circular; (g) approving a Final Offering Circular; and (h) authorizing, acknowledging and approving certain other documents and actions as may be necessary to complete the securitization transaction.

Subitem-B: (R-2006-) CONTINUED TO MONDAY, APRIL 24, 2006

Approving the financing plan as outlined in this report to leverage approximately \$10.1 million in annual employee retirement pick-up savings by depositing the City's anticipated tobacco settlement revenues for CY 2006 into the Pension System and securitizing an equivalent amount of the City's tobacco settlement revenues, starting with the anticipated receipts for CY 2007, to generate up to \$100 million for the Pension System;

Adopting a resolution to establish a nonprofit public benefit corporation (described as a Special Purpose Entity in previous reports), the City of San Diego Tobacco Settlement Revenue Funding Corporation (the "Corporation"), with a governing body (the "Board of Directors") consisting of the City's Chief Financial Officer, the City's Chief Operating Officer, and an Independent Director (Merlyn Brown), and approving certain actions in connection therewith in order to facilitate the securitization transaction.

STAFF SUPPORTING INFORMATION:

The City will securitize a pledge of a fixed amount of up to \$10.1 million (equal to the City's CY 2005 TSR receipts) in annual future TSR receipts and use the up front proceeds (after paying the financing costs and funding a debt service reserve fund) in conjunction with a contribution of TSRs to be received in CY 2006 to reduce the City's outstanding pension fund liability. The City will sell the right to receive the TSRs to a nonprofit public benefit corporation, the City of San Diego Tobacco Settlement Revenue Funding Corporation (the "Corporation"), in exchange for an up front payment. The Corporation will issue bonds to generate the up front payment to the City, dedicating the pledged TSRs to the corresponding debt service for these bonds. The Corporation will receive the gross proceeds from the investors from the sale of the bonds and

will forward the net proceeds (after paying for the up front financing costs, finding a debt service reserve fund and capitalizing the first interest payment) to the City to complete the transaction.

Concurrently with the securitization, as mentioned above, the City will also transfer the TSRs received in CY 2006 to the Pension System to ensure that the total contribution to the Pension System from the current and future TSRs will be \$100 million. It is expected that the April 2006 payment will be approximately \$10.3 million and therefore the bond issue will be targeted to produce approximately \$90 million in net proceeds for transfer to the pension system. This transfer of \$100 million is above and beyond the City's annual Employer Contribution requirement (Annual Required Contribution) for FY 2007. In the event that the City's April 2006 TSRs are lower than the projected \$10.3 million, then the amount of bonds to be issued under the financing plan will be increased proportionately so that the total contribution to the Pension System is \$100 million. For securitization sizing purposes, the cash contribution portion toward the pension funding from CY 2006 TSR payment was assumed to be \$8.5 million (figure conservatively assumes possible adjustment to the CY 2006 TSRs received).

Due to the proposed use of the proceeds to fund the Pension System, taxable bonds will be issued and, based on market conditions as of the week of March 6, 2006, a total bond size of approximately \$107.8 million is anticipated to produce net proceeds of \$91.5 million. The proposed bonds are expected to have a final maturity of CY 2024 (19 years). Although the financing plan estimates a final maturity of the tobacco bonds, the revenue will be pledged until the bonds are fully paid. Unanticipated actions delaying or suspending the MSA payments may cause the anticipated final maturity of the bonds to be extended.

FISCAL CONSIDERATIONS:

Any loss of the Tobacco Settlement Revenues (TSRs) to the General Fund from securitizing the revenue stream will be substituted by an equal amount of the annual employee offset savings achieved during the most recent labor negotiations. To eliminate adverse financial impacts on the General Fund from pledging up to \$10.1 million in TSRs, for the duration of the securitization term, it is expected and required that the pledged TSRs will be fully substituted by the employee offset savings achieved from the existing labor contracts and any future labor contracts. Lack of employee offset savings to backfill the TSR pledge in any year over the life of the financing will adversely affect General Fund ability to fund the programs listed above or meet other General Fund priorities.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On September 12, 2005, the City Manager presented City Manager Report No. 05-190 (CMR 05-190), entitled, "Options to Increase the Funded Ratio of the San Diego City Employees' Retirement System" to the City Council.

On February 6, 2006, the Chief Financial Officer presented Report to the City Council No. 06-012, entitled "Pension Solutions" to the City Council.

On March 29, 2006, the TSR securitization financing plan and TSR budgetary allocations summary were presented to the Budget and Finance committee.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

No anticipated affected programs.

Granewich/Goldstone

Staff: Lakshmi Kommi - (619) 236-6928

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:59 a.m. – 10:59 a.m.)

MOTION BY MADAFFER TO CONTINUE TO MONDAY, APRIL 24, 2006, AT THE REQUEST OF MAYOR SANDERS FOR FURTHER REVIEW Second by Atkins.
Passed by the following vote: Peters-ineligible, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-S500: 39TH Street Park Acquisition.

(Mid City-City Heights Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-817) ADOPTED AS RESOLUTION R-301351

Authorizing the Mayor, for and on behalf of said City, to apply to the State of California in Roberti-Z'berg-Harris Per Capita funds under the California Clean

Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002
for \$500,000 grant funds for the acquisition of property rights, title, escrow, and

miscellaneous for certain property located at 4624 40th Street, consisting of 8,189 square feet, for inclusion with the 39th Street Park Project (Project);

Authorizing the Mayor, or his representative, to take all necessary actions to secure funding from the State of California for the Project;

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

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

Authorizing the City Auditor and Comptroller to appropriate and expend \$500,000 from CIP-29-7020, 39th Street Park, for the acquisition of property rights, title, escrow, and miscellaneous for that certain property identified as 4624 40th Street, for the inclusion with the 39th Street Park, contingent upon receipt of a fully executed grant agreement;

Declaring this activity is exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3). This determination is predicated on Section 15004(b)(2) (A) of the Guidelines, which provides direction to lead agencies on the appropriate timing for environmental review. The use or disposition of this property will require further review under the provisions of CEQA.

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). On December 8, 2003, the Mayor and City Council approved Resolution R-298699, which included a distribution of the \$11,063,430 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.

This action authorizes the Mayor or his representative to apply for \$500,000, a portion of the 2002 Resources Bond RZH Per Capita funding allocated to Council District 3. The funds will be used for acquisition of the property located at 4624 40th Street for the expansion of 39th Street Park in the Normal Heights neighborhood of Council District 3.

FISCAL CONSIDERATIONS:

The acquisition will be entirely grant funded. Any future development of the site for park purposes will include fiscal considerations at the appropriate time.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On January 24, 2006, the Adams Recreation Council approved acquisition of the property for the expansion of 39th Street Park. On February 7, 2006, the Normal Heights Planning Group approved acquisition of the property for the expansion of 39th Street Park.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Normal Heights residents are the key stakeholders, and they support the acquisition as represented by the Adams Recreation Council and the Normal Heights Planning Group.

Waring/MacKenzie

Staff: Waring - (619) 236-6330
Hilda Ramirez Mendoza - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:59 a.m. – 11:00 a.m.)

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

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Pro Tem Young at 3:42 p.m. in honor of the memory of:

