THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, JUNE 27, 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 10:05 a.m. Council President Peters and Mayor Sanders recognized and thanked San Diego Lifeguards for their courageous service. The meeting was recessed by Council President Peters at 11:45 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:03 p.m. with Council Members Madaffer and Hueso not present. Council President Peters recessed the meeting at 2:53 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 2:55 p.m. with Council Member Madaffer not present. The meeting was adjourned by Council President Peters at 2:56 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-not present

(8) Council Member Hueso-present

Clerk-Maland (er/gs)

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-not present
(8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Hud Collins commented on the pension and financial crisis.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:54 a.m. – 10:55 a.m.)

PUBLIC COMMENT-2:

Don Stillwell commented on the safety of school children.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:55 a.m. – 10:58 a.m.)

PUBLIC COMMENT-3:

Max Schmidt commented on the Broadway Complex.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:58 a.m. – 11:03 a.m.)

PUBLIC COMMENT-4:

Ron Boshun commented on Council's actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:06 a.m.)

PUBLIC COMMENT-5:

Phil Hart commented on the smoking ban and the Council budget.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:06 a.m. – 11:08 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Faulconer welcomed Point Loma Boy Scout Troop 24 to the Council meeting.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:08 a.m. – 11:09 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Charles W. Yackly Day.

**COUNCIL PRESIDENT PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1084) ADOPTED AS RESOLUTION R-301586

Recognizing and commending Charles W. Yackly by declaring June 27, 2006, to be "Charles W. Yackly Day" in the City of San Diego.

FILE LOCATION: AGENDA

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

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

ITEM-31: The Urban Corps of San Diego/Québec-Amerique Pour La Jeuness Exchange Program Day.

**COUNCILMEMBER FAULCONER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1085) ADOPTED AS RESOLUTION R-301587

Congratulating and offering appreciation to the Urban Corps of San Diego and the Québec-Amerique Pour La Jeuness on the success of their second annual work exchange program;

Proclaiming June 27, 2006, to be "The Urban Corps of San Diego/Québec-Amerique Pour La Jeuness Exchange Program Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:22 a.m. – 10:26 a.m.)

MOTION BY FAULCONER TO ADOPT. 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-32: Jimmie Sober Day.

**COUNCIL PRESIDENT PRO TEM YOUNG'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1062) ADOPTED AS RESOLUTION R-301588

Proclaiming June 27, 2006, to be "Jimmie Sober Day" in the City of San Diego in celebration of his commitment and dedication to the community and the people of the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:36 a.m.)

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

ITEM-33: Jacquie Nelson Day.

**COUNCILMEMBER MAIENSCHEIN'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1091) ADOPTED AS RESOLUTION R-301589

Recognizing Jacquie Nelson for her outstanding service and contributions to the people of San Diego;

Proclaiming June 27, 2006, to be "Jacquie Nelson Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:15 a.m. – 10:21 a.m.)

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

* ITEM-50: Third Amendment to the Agreement between the City and Stradling Yocca Carlson & Rauth for Bond Counsel Services.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 6/12/2006, Item S400. (Council voted 8-0):

(O-2006-147 Cor. Copy) ADOPTED AS ORDINANCE O-19504 (New Series)

Authorizing the City Attorney to enter into a Third Amendment to the Contract for Bond Counsel Services with Stradling Yocca Carlson & Rauth with respect to bond counsel and disclosure counsel services rendered in connection with the issuance of bonds for Communities Facilities District No. 3 (Liberty Station); provided however that bond counsel shall be paid only from proceeds of the bonds and any deposits made by the developer therefor.

**NOTE:** 6 votes required.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

CONSENT MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

* ITEM-51: Amendments to the Condominium Conversion Regulations of the Land Development Code.

(See Report to the City Council No. 06-043. Citywide.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinances which were introduced as amended (Subitems A and B only) and adopt Subitem C, on 6/13/2006, Item 310. (Council voted 8-0):

Subitem-A: (O-2006-133 Rev.) ADOPTED AS ORDINANCE O-19505 (New Series)

Amending Chapter 12, Article 5, Division 4, of the San Diego Municipal Code by amending Section 125.0431; amending Chapter 12, Article 6, Division 5, by amending Section 126.0504; amending Chapter 14, Article 2, Division 4, by amending Sections 142.0402, 142.0404, and 142.0409; amending Chapter 14, Article 2, Division 13, by amending Section 142.1306; amending Chapter 14, Article 3, Division 3, by amending Section 143.0302; amending Chapter 14, Article 4, Division 5, by amending Sections 144.0503, 144.0504, 144.0505, and 144.0507; amending Chapter 14, Article 4, Division 5, by repealing Section 144.0506; amending Chapter 14, Article 4, Division 5, by adding a new Section 144.0508; and amending Chapter 14, Article 4, Division 5, by renumbering Section 144.0508 to Section 144.0509; all relating to condominium conversion regulations.

Subitem-B: (O-2006-134 Rev.) ADOPTED AS ORDINANCE O-19506 (New Series)

Amending Chapter 14, Article 2, Division 5, of the San Diego Municipal Code by amending Sections 142.0505 and 142.0525, relating to condominium conversion regulations.

Subitem-C: (O-2006-135) ADOPTED AS ORDINANCE O-19507 (New Series)

Amending the Land Development Manual to include an appendix of sample notices required for condominium conversions.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

CONSENT MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCES. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-nay, Frye-yea, Madaffer-not present, Hueso-yea.

* ITEM-52: Transfer of Express Waste & Roll Services Non-Exclusive Solid Waste Collection Franchise Agreement.

**STAFF'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2006-152) INTRODUCED, TO BE ADOPTED ON TUESDAY, JULY 11, 2006

Introduction of an Ordinance approving the transfer of a non-exclusive solid waste collection franchise from Express Waste & Roll Off Services, LLC, to Express Waste & Recycling, Inc;

Authorizing the Mayor to execute, for and on behalf of the City, a Class I Non-Exclusive Solid Waste Collection Franchise Agreement with Express Waste & Recycling, Inc., under the terms and conditions set forth in the Franchise Agreement;

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

**NOTE:** 6 votes required.

**STAFF SUPPORTING INFORMATION:**

On December 13, 1996, the City Council enacted Ordinance No. O-18353, which amended the San Diego Municipal Code to establish Non-Exclusive Solid Waste Collection Franchises for solid waste haulers and authorized the City Manager to execute Non-Exclusive Solid Waste Collection Franchise Agreements with the City's seventeen existing licensed solid waste haulers. Under City Charter Section 103, franchises may be granted only by ordinance approved by a two thirds vote of the City Council. Charter Section 103 together with San Diego Municipal Code Section 66.0120 prohibits the transfer, sale, lease, or assignment of a franchise, including by way of a forced sale, bankruptcy or otherwise without Council approval which shall not be unreasonably withheld. Charter Section 103 further states that: "Absent Council approval, the franchise shall not be deemed to have been transferred to the new entity."

Express Waste & Recycling is a newly formed Incorporation and has applied for the transfer of the Express Waste & Roll Off Services franchise to Express Waste & Recycling. Although these two companies have similar names, they are separate business entities. An application containing current business license, business plan, proof of insurance, performance bond, and vehicle information data has been submitted and reviewed. Staff has determined that Express Waste & Recycling's application meets all the technical and financial criteria for the transfer of a Non-Exclusive Solid Waste Collection Franchise within the City of San Diego. A background check was conducted through the City Attorney's Office, the results of which are satisfactory. ESD has verified that Express Waste & Roll Off Services has paid all amounts due and owing to the City under its franchise agreement. In addition, the applicant and current Franchisee has signed the Consent To Transfer Of Solid Waste Collection Franchise and Waiver & Release whereby both parties expressly consent to the transfer of the Express Waste & Roll Off Services franchise to Express Waste & Recycling and expressly waive and release the City for any claims, etc., which may be related to this franchise. The City of San Diego currently has 21 franchise agreements in place, including the agreement with Express Waste & Roll Off Services.

ALTERNATIVE ACTION(S):
Disapprove the transfer request. This action will result in one less Non-Exclusive Franchise Hauler available to offer services to the businesses and residents of the City of San Diego.

FISCAL CONSIDERATIONS:
There are no anticipated expenses or significant revenue impacts related to this action. This action will authorize the transfer of a franchise from one company to another.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
This action is a transfer of an existing franchise and will not result in a decrease or increase of hauling services available to the businesses or residents of the City of San Diego.

KEY STAKEHOLDERS & PROJECTED IMPACTS:
Express Waste & Roll Off Services, LLC
Express Waste & Recycling, Inc.
City of San Diego

If this action is approved there will be no impact on the number of hauling companies currently available to offer services to the businesses or residents of the City of San Diego.

Heap/Haas

Staff: Samuel A. Merrill - (858) 573-1253
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

CONSENT MOTION BY ATKINS TO INTRODUCE THE ORDINANCE. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

* ITEM-100: Seismic Retrofit of the West Mission Bay Drive Bridge Over Mission Bay Channel (Bridge No. 57C-426).

(Mission Bay Park Community Area. District 2.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1094) ADOPTED AS RESOLUTION R-301590

Authorizing the City Auditor and Comptroller to transfer, appropriate, and expend an amount not to exceed $135,000 from CIP-58-007.0, Overhead and Other City Costs for Street Projects, Fund 30300, TransNet, to CIP-53-055.0, Seismic Retrofit of the West Mission Bay Drive Bridge over Mission Bay Channel, for the purpose of funding non-reimbursable construction expenses;

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

Declaring this activity is not subject to CEQA pursuant to State CEQA Guidelines Section 15061(b)(3).

**STAFF SUPPORTING INFORMATION:**

Construction for this project began in October of 2002 and was successfully completed in August of 2003. Currently the project is in its third year of the five years environmental mitigation and monitoring program.

The retrofit was eligible for Federal and State grant funding through the Highway Bridge Rehabilitation and Replacement (HBRR) Program. In October of 2002, the City of San Diego received an authorization to proceed with construction and a Program Supplement in an amount of $9,397,013. However, due to the recent post construction audit, it was determined that of the $9,397,013 budgeted, $135,000 is non-reimbursable expenses. The non-reimbursable expenses are related to differences between Federal overhead rate and the City's.

FISCAL CONSIDERATIONS:
Funds are available from CIP-58-007.0, Overhead & Other City costs for Street Projects, Fund 30300, TransNet.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
Accepting Program Supplement No. 11-5004(104) (Resolution #R-296943, dated August 5, 2002)
Accepting Modification to Program Supplement No. 11-5004(104) (Resolution #R-297379, dated November 25, 2002)

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
None required for this action.

KEY STAKEHOLDERS:
Caltrans and FHWA

Boekamp/Haas

Aud. Cert. 2600908.

Staff: K. Shackelford - (619) 533-3781
Jeremy Jung - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

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

ITEM-101: Second Amendment to Agreement with SCS Engineers for Mission Bay Landfill Site Assessment.

(Mission Bay Park Community Area. District 6.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-957) ADOPTED AS RESOLUTION R-301591

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a further amendment to the agreement with SCS Engineers for professional services in connection with the Mission Bay Landfill site assessment, under the terms and conditions set forth in the Second Amendment;

Authorizing the expenditure of an amount not to exceed $225,000 from Refuse Disposal Enterprise Fund No. 30244, CIP-32-028.0, solely and exclusively, to provide funds for the above Second Amendment;

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

**STAFF SUPPORTING INFORMATION:**

This proposed Second Amendment to the Agreement with SCS Engineers will provide for additional professional services on the Mission Bay Landfill Site Assessment project including presentations to the City's Technical Advisory Committee (TAC), additional modeling of Human and Ecological Health risks, and facilitating technical subcommittee meetings to evaluate field sampling results.

With the first amendment, a more thorough and supportable site assessment was conducted of the Mission Bay landfill. With this proposed second amendment, the site assessment will be concluded and provisions for further work will be made if needed.

On June 30, 2003, Council approved the original agreement (Document RR-298137) which provided for multiple funding phases. Phase 1 of this project was completed and developed a Preliminary Site Assessment Plan that described the Phase 2 field work, test methods, and safety measures to be taken. On June 27, 2005, Council approved the first amendment to the agreement to provide for additional field investigations and report writing. This proposed second amendment will provide for concluding the site assessment and for possible further work.

FISCAL CONSIDERATIONS:
This action is for authority to increase the consultant's compensation by $225,000 to a new total of $875,000. Of this $225,000 increase, $95,000 is for completion of the site assessment and $130,000 is for potential additional services. This increase will be from existing project funds, CIP-320280, in the Refuse Disposal Enterprise Fund. All funds proposed to be expended are from the Refuse Disposal Enterprise Fund and funds will not be expended or encumbered until such time as specific projects and funding levels are identified and the City Auditor and Comptroller first issues a certificate demonstrating that the necessary funds are, or will be, on deposit in the City Treasury.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
The Mission Bay Technical Advisory Committee has been reviewing the work of this consultant and the landfill site assessment.

KEY STAKEHOLDERS:
SCS Engineers

Gonaver/Haas

Aud. Cert. 2600851.

Staff: Steve Fontana - (858) 492-5077
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:09 a.m. – 11:17 a.m.)

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

* ITEM-102: Agreement with the Bird Rock Development Corporation for the Administration of Contracts for Goods and Services in the Bird Rock Maintenance Assessment District.

(See Report to the City Council No. 06-077. La Jolla Community Area. District 1.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1055) ADOPTED AS RESOLUTION R-301592

Authorizing and empowering the Mayor, to execute, for and on behalf of the City of San Diego, an agreement with Bird Rock Development Corporation, for administration of Contracts for Goods and Contracts for Services for the Bird Rock Maintenance Assessment District for a period of four months, beginning March 1, 2006, in accordance with San Diego Municipal Code Section 65.0212, under the terms and conditions set forth in the Agreement;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed $8,248 from Fund No. 70281, Bird Rock Maintenance Assessment District, for administrative fees incurred by the Bird Rock Development Corporation in the course of providing services under the Service Agreement, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are available.

Aud. Cert. 2600876.

Staff: Clay Bingham - (619) 533-6724
Alex W. Sachs - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

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

* ITEM-103: Approval of Revised (12-14-05) Otay Valley Regional Park (OVRP) Joint Exercise of Powers Agreement (JEPA).

(Otay Valley Community Area. District 8.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-991) ADOPTED AS RESOLUTION R-301593

Authorizing and empowering the Mayor, to execute the revised Otay Valley Regional Park Joint Exercise of Powers Agreement (Agreement), under the terms and conditions set forth in the Agreement among the Cities of San Diego and Chula Vista and the County of San Diego;

Declaring this activity is not a "project" and therefore is not subject to California Environmental Quality Act (CEQA) pursuant to the State Guidelines Section 15060(c)(3). Future activities involving physical effects to the environment will require further environmental review under CEQA.

**STAFF SUPPORTING INFORMATION:**

The revised OVRP JEPA was approved by City Council on October 2005 and then the JEPA was taken to the County Board of Supervisors for approval. It was discovered by the County and agreed to by staff from each member jurisdiction, that a further minor adjustment to the revised OVRP JEPA was necessary. The proposed adjustment involves clarification of the minimum number of votes necessary for the Citizens Advisory Committee (CAC) to take action. The revised OVRP JEPA established 12 members as a quorum for the 30 members of the CAC. It states "a simple majority (7) of the 12 votes shall be required to take action on an item." Unfortunately, this does not account for the situations where a higher attendance of the CAC members may occur and that a majority vote of higher than seven votes may be necessary to take action. Therefore, Staff recommends that the revised OVRP JEPA be modified to account for this. The revised JEPA was modified on 12-14-05 and is therefore referred to as the 12-14-05 version. The County Board of Supervisors voted to approve the revised (12-14-05) OVRP JEPA on December 14, 2005 and the City of Chula Vista City Council voted to approve the revised (12-14-05) OVRP JEPA on March 21, 2006.

FISCAL CONSIDERATIONS:
The fiscal impact of the maintenance and operations of the OVRP have been included in the City's annual budget. The City of Chula Vista, through the JEPA, will reimburse the City for the cost of maintaining their land.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
A draft Joint Powers of Agreement for Planning and Acquisition of the Otay Valley Regional Park was first prepared by the County of San Diego and forwarded to the City of San Diego for review on March 16, 1989. Subsequent review and revisions of the original draft Joint Powers Agreement resulted in the final document called the Joint Exercise of Powers Agreement (JEPA) and was approved by the City of San Diego on January 30, 1990. The JEPA was also approved by the City of Chula Vista and the County of San Diego. The JEPA was revised in 2005 to address maintenance and operations between the jurisdictions as well as minor changes that were recommended by the Policy Committee and the Citizens Advisory Committee. City of San Diego Council approved the revised 2005 JEPA on October 10, 2005.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
The OVRP JEPA was unanimously approved by the OVRP Citizens Advisory Committee on March 18, 2005 and unanimously approved by the OVRP Policy Committee on May 12, 2005.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
The City of San Diego, the County of San Diego, and the City of Chula Vista, are the key stakeholders of this agreement.

Penera/Martinez

Staff: April Penera - (619) 525-8223
Shannon M. Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

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

* ITEM-104: Department of Homeland Security - Federal Emergency Management Agency's (FEMA) Assistance to Firefighters Grant Program.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1081) ADOPTED AS RESOLUTION R-301594

Authorizing the Mayor, or his designated representative, for and on behalf of the City, to make an application to the Department of Homeland Security - Federal Emergency Management Agency's (FEMA) U.S. Fire Administration for a grant from the Assistance to Firefighters Grant Program for funding for an Operations and Firefighter Safety Program;

Authorizing the Mayor, or his designated representative, to take all necessary actions to secure grant funding for the Operations and Firefighter Safety Program;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend grant funds upon award of the grant and receipt of grant funds for an Operations and Firefighter Safety Program;

Authorizing the City Auditor and Comptroller to accept and expend $175,000 granted by the Indian Gaming Local Community Benefit Committee (IGLCBC) to the San Diego Fire-Rescue Department to help fund a Portable Live Fire Training Unit.

**STAFF SUPPORTING INFORMATION:**

The U.S. Fire Administration administers the Assistance to Firefighters Grant Program for the Department of Homeland Security, FEMA. The intent of this program is to provide grant funding to local fire departments to protect the public and firefighting personnel from fire and fire-related hazards.

This action authorizes the Mayor to pursue grant funding through the FEMA's U.S. Fire Administration for the development of an Advanced Driver Training Program and a Portable Live Fire Training Program.

The goal of these programs is to reduce injuries, death, liability costs and improve overall safety for firefighters and the community. This will be accomplished by developing and implementing an Advanced Driver Training Program and Live Fire Training Program. The Advanced Driver Training Program would include annual competency testing for all certified drivers, as well as annual defensive driving training utilizing mobile, sophisticated simulators. The driving simulator systems will use high fidelity, real-world driving environments to demonstrate decision-making and behavior over a wide range of situations faced daily by emergency responders.

The Live Fire Training Program is designed for basic firefighter "hands-on" training as well as ongoing training for veteran firefighters. This unit is mobile and its design will provide skill-testing capabilities that meet minimum Firefighter I training requirements stipulated in national guidelines. Some of the simulator training capabilities include flashover recognition, back draft recognition, tactics and strategy for fire suppression and ventilation, search and rescue techniques.

Indian Gaming Local Community Benefit Committee
The Indian Gaming Local Community Benefit Committee (IGLCBC) is responsible for facilitating the distribution of appropriations from the Indian Gaming Distribution Fund by selecting those grants from each Individual Tribal or County Tribal Casino account that will be applied toward the support of local government agencies impacted by tribal gaming.

In 2006, with the assistance of the San Diego Fire-Rescue Department and the Corporate Partnership Program, the City submitted a grant proposal to IGLCBC. The City was granted $175,000 to be used towards the purchase of a Portable Live Fire Training Unit. It is recommended that the IGLCBC funds be accepted and expended on the Portable Live Fire Training Unit.

FISCAL CONSIDERATIONS:
If the grant is approved and secured, the City would receive $621,210 from the Department of Homeland Security, FEMA. Total estimated projects cost for the Advance Driver and Live Fire training programs is estimated at $776,512. The minimum required match for the grant is 20% of the total project cost, which would be $155,302.

Grant funding from IGLCBC will be used to pay the required match saving the City $175,000. The grant funding from IGLCBC will be used to purchase a Portable Live Fire Training Unit. Successful grant funding from the Department of Homeland Security, FEMA will allow the City to procure the much-needed public safety resource.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

| | | | |
|---|---|---|---|
| Carlsbad | Encinitas | National City | Santee |
| Chula Vista | Escondido | Oceanside | Solana Beach |
| Coronado | Imperial Beach | Poway | Vista |
| Del Mar | La Mesa | San Diego | |
| El Cajon | Lemon Grove | San Marcos | |

KEY STAKEHOLDERS:
Citizens of San Diego
San Diego City Firefighters

Bowman/Olen

Staff: Monica Orton - (619) 533-4304
Jessica Falk Michelli - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

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

* ITEM-105: Amendment to Residential Permit Parking Area "E" of the 3400 Block of Apollo Street in the San Diego Mesa College Area.

(See Report to the City Council No. 06-075. Clairemont Mesa Community Area. District 6.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1046) ADOPTED AS RESOLUTION R-301595

Adding to Residential Permit Area "E", the east side of 3400-block of Apollo Street, between Mesa College Lot 2 and Beagle Street, pursuant to the authority conferred by and in accordance with the requirements of Division 20 of Article 6 of Chapter 8 of the San Diego Municipal Code;

Prohibiting between the hours of 7:00 A.M. and 7:00 P.M. Monday through Friday, except for those days designated "Nonenforcement Days" in Municipal Code Section 86.01, including any subsequent amendments thereto, parking on the east side of the 3400-block of Apollo Street, between Mesa College Lot 2 and Beagle Street, unless the vehicle displays a valid Permit Parking Area "E" residential parking permit;

Specifying the fee to be charged for permit issuance shall be that fee, in the City of San Diego Ratebook, including any subsequent amendments thereto;

Authorizing the installation of the necessary signs and markings to the east side of the 3400 block of Apollo Street, between Mesa College Lot 2 and Beagle Street, and the regulations hereinabove imposed shall become effective upon the installation of such signs;

Finding that this activity is the minor alteration in the operation of an existing facility with no expansion in use and is therefore exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301.

**STAFF SUPPORTING INFORMATION:**

The purpose of the Residential Permit Parking program is to mitigate the impact of long-term commuter parking on residential neighborhoods. Since the program was enacted in 1977, five Residential Permit Parking Districts have been created. Residential Permit Parking Area "E", in the San Diego Mesa College area, was established in 2002. This would be the first expansion of Area "E" since it was established. This action was initiated in response to a petition signed by 80% of the affected residences. This action has the support of the Clairemont Mesa Planning Committee.

FISCAL CONSIDERATIONS:
The current fee for annual permits in Area "E" is $14, as established by the City Council. Average permit sales in Area “E” are 2.5 permits per address. The maximum number of permits allowed per address is 5. The area to be added on Apollo Street contains 5 addresses. Accordingly, it is estimated that the probable annual revenue from permit sales on Apollo Street would be about $175. The permit cost is intended, under Division 20, Chapter 8, Article 6, Section 86.2013 of the Municipal Code, to cover the administrative and enforcement costs of the district. According to a recent Parking Management review, the actual cost to the City, on a per permit basis, is $45. Consequently, the addition of Apollo Street to Area “E” would result in an annual deficit of about $388. Additionally, there would be an initial start-up expense for the installation of 3 regulatory signs, at a cost of $150 per sign, for a total of $450; this cost is neither budgeted by, nor recoverable from, the revenues generated by permit sales, and would be covered by monies from the General Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
None of which we are aware.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
In accordance with the requirements of Section 86.2006 of the Municipal Code, a public hearing was held in conjunction with the monthly meeting of the Clairemont Mesa Planning Committee on February 21, 2006. The results of the study were presented, and public comment was available to residents of Apollo Street and any other interested members of the public.

Favorable input was received from those residents of Apollo Street present at the meeting, after which the Committee approved of the request to add Apollo Street to Residential Permit Parking Area "E" by a 10-1 voice vote, with one vote against, (the opposing member gave no reason for his opposition). No member of the public spoke in opposition to the action.

Groups supporting the inclusion of Apollo Street in Area "E": Clairemont Mesa Planning Committee.

Groups opposing the inclusion of Apollo Street in Area "E": None of which we are aware.

KEY STAKEHOLDERS & PROJECTED IMPACTS:
The proposed action would relieve the residents of the 3400 block of Apollo Street of the impact of long-term commuter parking on their street. There is also the probability of an increase in commuter parking on adjacent streets, as well as increase in traffic volume, as students at San Diego Mesa College search for free on-street parking. There are no businesses in the area to experience an impact on employees or customers.

Boekamp/Haas

Aud. Cert. 2600861.

Staff: Deborah Van Wanseele - (619) 533-3012
Tim Miller - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

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

* ITEM-106: Amendment to Residential Permit Parking Area "E" Hilton Place in the San Diego Mesa College Area.

(See Report to the City Council No. 06-076. Clairemont Mesa Community Area. District 6.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1047) ADOPTED AS RESOLUTION R-301596

Removing from Residential Permit Area "E", the 7000-block of Hilton Place, between Marlesta Drive and the cul-de-sac, pursuant to the authority conferred by and in accordance with the requirements of Division 20 of Article 6 of Chapter 8 of the San Diego Municipal Code;

Authorizing the Mayor, or his designee, to remove of all signs and markings on both sides of the 7000-block of Hilton Place, between Marlesta Drive and the cul -de-sac, and to take other necessary action, to implement the removal of the 7000-block of Hilton Place from Permit Parking Area "E";

Finding that this activity is not a project because this activity does not result in a direct or reasonable 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:**

The purpose of the Residential Permit Parking program is to mitigate the impact of long-term commuter parking on residential neighborhoods. Since the program was enacted in 1977, five Residential Permit Parking Districts have been created. Residential Permit Parking Area "E", in the San Diego Mesa College area, was established in 2002. This would be the first reduction of that district. This action was initiated in response to a petition representing 86% of the affected residences. This action has the support of the Clairemont Mesa Planning Committee, and the affected residents. This action meets the requirements of the Municipal Code for removal from a Residential Permit Parking District.

FISCAL CONSIDERATIONS:
The current fee for annual permits in Area "E" is $14, as established by the City Council. Permit sales for Hilton Place are 40 permits for 14 addresses (approximately 2.9 permits per address). The maximum number of permits allowed per address is 5. Accordingly, it is estimated that the probable annual decrease revenue from permit sales for Residential Permit Parking Area "E" would be about $560. According to Parking Management, the removal of Hilton Place, due to the size and location of the street, would result in a negligible reduction in enforcement and administrative costs to the City for Residential Permit Parking Area "E". Additionally, there would be a one-time expense for the removal of 5 existing regulatory signs, at a cost of $50 per sign, for a total of $250; this cost is neither budgeted by, nor recoverable from, the revenues generated by permit sales, and would be covered by monies from the General Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
None of which we are aware.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
In accordance with the requirements of Section 86.2006 of the Municipal Code, a public hearing was held in conjunction with the monthly meeting of the Clairemont Mesa Planning Committee on February 21, 2006. The results of the study were presented, and public comment was available to residents of Hilton Place and any other interested members of the public. Favorable input was received from those residents of Hilton Place present at the meeting. The Committee approved of the request to remove Hilton Place from Residential Permit Parking Area "E" by a 10-0 voice vote, with one abstention, (the abstaining member gave no reason for his abstention). No member of the public spoke in opposition to the action.

Groups supporting the removal of Hilton Place from Area "E": Clairemont Mesa Planning Committee.

Groups opposing the removal of Hilton Place from Area "E": None of which we are aware.

KEY STAKEHOLDERS & PROJECTED IMPACTS:
The proposed action would relieve the residents of the 7000 block of Hilton Place from the necessity of purchasing permits to park on-street. There is also the probability of an increase in non-resident parkers, and an increase in local traffic volume, as students at San Diego Mesa College discover the free on-street parking. The increase in traffic could also be experienced by the residents of Marlesta Drive leading to Hilton Place. There are no businesses in the area to experience an impact on employees or customers.

Boekamp/Haas

Aud. Cert. 2600860.

Staff: Deborah Van Wanseele - (619) 533-3012
Tim Miller - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

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

* ITEM-107: California Coastal Commission Open and Public Access Easement.

(Carmel Valley Community Area. District 1.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-985 Cor. Copy) ADOPTED AS RESOLUTION R-301597

Authorizing the acceptance by the Mayor of the irrevocable offers to dedicate open space and public access easements, as reflected on the certificate of acceptance, executed in favor of the City of San Diego referenced in Exhibit A;

Authorizing and directing the City Clerk to cause the certificate of acceptance and a certified copy of this resolution, attested by her under seal, to be recorded in the Office of the County Recorder at no fee for the benefit of the City, with no documentary tax due.

**STAFF SUPPORTING INFORMATION:**

Carmel Valley Village Unit No.4, Parcel No. 12988, was approved by the City on November 23, 1992. As part of the initial approval process, in 1985 the California Coastal Commission was granted, in 1985, an Irrevocable Offer to Dedicate Drainage, Public Access and Open Space Easements (OTD) on the property by the developer. The Parcel Map did dedicate some of the easements required by the California Coastal Commission, but apparently not all that was originally required. The California Coastal Commission recently contacted the Real Estate Assets Department to have the City accept the remaining easements which were originally required in 1985.

The Parcel did set aside the areas identified by the OTD, and dedicated them as "Open Space", but did not dedicate all the areas to Public Access as the California Coastal Commission had originally required. By this action, the additional Public Access areas will be accepted by the City using the California Coastal Commission's Acceptance Certificate.

FISCAL CONSIDERATIONS:
There is no cost associated with this action.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
N/A

Boyle/Waring

Staff: Michael Boyle – (619) 236-5548
Brock Ladewig – Deputy City Attorney

FILE LOCATION: DEED F-9992

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

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

* ITEM-108: Appointment of Eric C. Naslund to the Planning Commission.

(See memorandum from Mayor Sanders dated 5/30/2006, with resume attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1063) ADOPTED AS RESOLUTION R-301598

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Planning Commission, for a term ending as indicated:

| **NAME** | **TERM ENDING** |
|---|---|
| Eric C. Naslund (Resident of La Mesa) (Replacing Mark W. Steele, whose term expired) | January 28, 2010 |

Declaring pursuant to Council Policy 000-13, for purposes of deliberation and consideration of appointment, it is determined that Eric C. Naslund is a resident of San Diego County, but not the City of San Diego, and has unique qualifications to serve as a member of the Commission, therefore, a conscious exception to Council Policy 000-13.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

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

* ITEM-109: **NOTE:** This item has been taken off the docket.

* ITEM-110: House of Hospitality Association 85th Anniversary Day.

**MAYOR SANDERS' AND COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1072) ADOPTED AS RESOLUTION R-301599

Congratulating the House of Hospitality Association for its 85 years of service to the City of San Diego and its stewardship and promotion of Balboa Park;

Proclaiming June 15, 2006, to be "The House of Hospitality Association 85th Anniversary Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

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

* ITEM-111: National Management Association Week.

**COUNCIL PRESIDENT PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1057) ADOPTED AS RESOLUTION R-301600

Proclaiming June 26-June 30, 2006, to be "National Management Association Week" in the City of San Diego and encouraging individuals, industries, businesses, and professional bodies to participate in its observance.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

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

* ITEM-112: Bruce M. Abrams Day.

**COUNCIL PRESIDENT PETERS', COUNCILMEMBER ATKINS', AND COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1096) ADOPTED AS RESOLUTION R-301601

Recognizing Bruce M. Abrams and commending him for his contributions to the City of San Diego;

Proclaiming June 25, 2006, to be "Bruce M. Abrams Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

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

* ITEM-113: Park Manor Suites Hotel 80th Anniversary Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1093) ADOPTED AS RESOLUTION R-301602

Recognizing the accomplishments of the Park Manor Suites Hotel and commending its owner and staff for their efforts to provide a destination for visitors and special events in the City of San Diego;

Proclaiming July 1, 2006, to be "Park Manor Suites Hotel 80th Anniversary Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

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

* ITEM-114: Grover Diemert Day.

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1090) ADOPTED AS RESOLUTION R-301603

Commending Grover Diemert for his outstanding service, leadership, and commitment to the people of San Diego;

Proclaiming June 30, 2006, to be "Grover Diemert Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

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

* ITEM-115: Father Jaime Rasura Day.

**COUNCILMEMBER HUESO'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1073) ADOPTED AS RESOLUTION R-301604

Commending Father Rasura for his outstanding service, leadership and commitment to the people of San Diego;

Proclaiming June 15, 2006, to be "Father Jaime Rasura Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

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

ITEM-330: Authorizing Retention of Latham & Watkins and Harvey Levine, Levine Steinberg, et al, as Co-Counsel to Prosecute Bad Faith Case in Insurance Company of the State of Pennsylvania vs. City of San Diego, U.S. District Court Case No. 02-CV-0693.

(Otay Mesa Community Area. District 8.)

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-993 Cor. Copy) ADOPTED AS RESOLUTION R-301605

Authorizing the retention of Latham & Watkins and co-counsel Harvey Levine of Levine Steinberg et al, for the prosecution of bad faith claims in the case of Insurance Company of the State of Pennsylvania vs. City of San Diego, U.S. District Court Case No. 02-CV-0693;

Authorizing the City Attorney to execute, for and on behalf of the City of San Diego, a Retainer Agreement, by and between the City of San Diego and Levine Steinberg Miller & Huver, for certain legal services regarding the pursuit of bad faith claims in the aforementioned case;

Stating said Retainer Agreement provides for Levine Steinberg et al to be compensated on a contingent basis to be paid upon the conclusion of the case, pursuant to the terms of the Agreement;

Authorizing the City Auditor and Comptroller to transfer and allocate $2,000,000 from the Unappropriated/Unallocated Reserve to the Public Liability Fund for the coverage of Latham & Watkins' legal fees and costs related to this matter.

**SUPPORTING INFORMATION:**

The City's insurers, Insurance Company of the State of Pennsylvania ("ISOP"), and other AIG insurers, sued the City in federal court in 2002, seeking a finding of no coverage for the City's defense (attorneys' fees) and indemnity (damages) in the De La Fuente cases (Otay Acquisitions v. City, S.D.S.C. Case No. GIC 753247; National Enterprises v. City, S.D.S.C. Case No. GIC 730011; and Border Business Park, Inc. v. City, S.D.S.C. Case No. GIC 692794). The City counter-claimed to establish its right to a defense and for bad faith.

In March 2005, the Ninth Circuit Court of Appeals reversed the District Court and held ISOP has a duty to defend the City. Despite that ruling, ISOP has continued to file motions in the District Court disputing its duty to defend and the amount of fees it must reimburse to the City. In March 2006, the District Court issued a judgment that ISOP must pay the City's defense costs, subject to statutory limits (for now).

The District Court has also lifted a stay order and is allowing the City to pursue its bad faith claim against ISOP for its failure to defend.

As a result of this successful litigation against the City's insurance carriers, approximately $5,637,427 of insurance proceeds already have been received to help defray the costs of the representation for defense of the De La Fuente cases and for payment of damages (if any). Unlike the AIG insurers, another City insurer, United National, without litigation has paid one occurrence policy limit ($2 million), which the City can use to fund any settlement or liability in the De La Fuente cases. This amount is included in the total above.

In order for the City to recover damages from ISOP, the City must pursue its bad faith claim. This will require extensive discovery, motion practice and trial preparation. It is the view of outside counsel (Latham and co-counsel, Harvey Levine) that, while there can be no guarantees of recovery, the City's duty to defend bad faith case is a strong one because (1) ISOP's own personnel recognized their duty to defend in the claims files; (2) ISOP agreed in writing to defend in 2001; (3) ISOP nonetheless delayed (for months and years at a time) payment of the City's defense costs, and repeatedly stopped all payment for months and years. Among other things, damages recoverable by the City may consist of (1) unpaid defense costs; (2) the shortfall between ISOP's partially paid defense costs and defense counsels' actual fees; (3) interest on these amounts; (4) the cost of the coverage litigation; and (5) punitive damages.

FISCAL CONSIDERATIONS:
With this action the Council will authorize the City Auditor and Comptroller to transfer $2 million from the Unappropriated/Unallocated Reserve to the Public Liability Fund to cover the initial portion of the Latham & Watkins representation in the bad faith case.

Latham & Watkins will proceed with the case on an hourly billing basis. In addition, co-counsel Harvey Levine of Levine Steinberg, et al will be reimbursed under a contingent basis and will be paid at the conclusion of the case pursuant to the terms of his retainer agreement.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
Closed Session approval of retention on May 16, 2006.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
N.A.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
Law firm of Latham & Watkins, Kristine Wilkes, lead partner
Law firm of Levine Steinburg et al, Harvey Levine

Sachs

Aud. Cert. 2600901.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:17 a.m. – 11:18 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-not present, Hueso-yea.

ITEM-331: Payment of Additional Funds for Items related to SEC/USAO (United States Attorney's Office) Investigations.

(See Report to the City Council No. 06-080.)

**MAYOR SANDERS' AND CITY ATTORNEY AGUIRRE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1065) ADOPTED AS AMENDED AS RESOLUTION R-301611

Authorizing an increase in funding totaling $250,000 for the outside counsel fees and costs on behalf of current and former City employees related to investigations by the SEC, the USAO, the DA, and the City;

Authorizing an amount not to exceed $40,000 for the Firm of ALC Legal Technologies for copy and scanning services related to the investigations by the SEC, the USAO, the DA, and the City;

Authorizing an amount not to exceed $160,000 for the Firm of Compliance Inc. for providing temporary services for the remainder of Fiscal Year 2006 and calendar year 2006 related to the investigations by the SEC, the USAO, the DA, and the City;

Authorizing the Real Estate Assets Director to execute a Sublease Agreement in an amount not to exceed $53,072.94 for office space located in the Civic Center Plaza to be used as a document repository related to the SEC, USAO, and DA investigations;

Authorizing the City Auditor and Comptroller to transfer the necessary sum of $503,072.94 from the General Fund Unappropriated Reserves, Fund 100, to the Public Liability Fund 81140 to meet the General Fund portion of these costs; and

Declaring the spending authorization on the attorney's fees and costs herein will be suspended if criminal charges are brought against any past or present employee, and that the City reserves its right to terminate payment of fees and seek reimbursement of fees and costs paid in the event that criminal charges are brought against any past or present employee, or if a conviction is obtained.

Aud. Cert. 2600902.

Staff: Alex W. Sachs - (619) 533-5875
Kimberly K. Harris - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:06 p.m. – 2:44 p.m.)

MOTION BY ATKINS TO ADOPT THE RESOLUTION AS AMENDED TO: 1) ON PAGE 1, DELETE THE THIRD PARAGRAPH, WHICH BEGINS WITH THE WORDS “WHEREAS, THE CITY COUNCIL DETERMINED THAT”; 2) ON PAGE 1, AT THE END OF THE FOURTH PARAGRAPH, INSERT THE WORDS “WITH OVERSIGHT BY THE CITY AUDITOR’S OFFICE”; 3) ON PAGE 2, SECTION 3,

INSERT THE WORDS "OR OTHER COMPARABLE FIRM" AFTER THE WORDS "COMPLIANCE INC."; 4) ON PAGE 3, LEAVE IN SECTION 6, WHICH BEGINS WITH THE WORDS "THAT THE SPENDING AUTHORIZATION"; AND 5) CONFORM THE RESOLUTION TO REFLECT THE ALLOCATION VOTE TAKEN. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Hueso-yea.

MOTION BY ATKINS TO FOLLOW THE STANDARD ALLOCATION THAT HAS BEEN ESTABLISHED WHICH STATES 70 PERCENT FROM GENERAL FUND AND 30 PERCENT FROM NON-GENERAL FUND. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-nay, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Hueso-yea.

ITEM-332: Deappropriation of TransNet Commercial Paper.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-986) ADOPTED AS RESOLUTION R-301607

Authorizing the City Auditor and Comptroller to deappropriate TransNet Commercial Paper, Fund 30306, in the amount of $18,682,400, on June 30, 2006.

**STAFF SUPPORTING INFORMATION:**

As part of the Fiscal Year 2006 Final Capital Improvements Program Budget, the Mayor and City Council approved approximately $59.8 million in capital improvement projects funded by the TransNet Program. Of this total amount, approximately $31.4 million is TransNet Sales Tax and reimbursements, and approximately $28.4 million is TransNet Commercial Paper. Of the TransNet Commercial Paper programmed, $13.4 million was from prior years and carried over as a result of our cash management process, and $15 million is related to the TransNet Extension which was approved through the Fiscal Year 2006 budget process.

It is recommended that $18,682,400 of programmed Commercial Paper be deappropriated this fiscal year of which $3,682,400 is related to our cash management process, and $15 million is related to the TransNet Extension which is addressed in the Fiscal Year 2007 Annual Budget.

The remaining $9,706,425 of TransNet Commercial Paper is to sustain current project funding levels.

FISCAL CONSIDERATIONS:
There will be no impact to projects.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
Prior actions to deappropriate TransNet Commercial Paper, Fund 30306: R-300515 on June 13, 2005; R-299357 on June 21, 2004; R-298124 on June 24, 2003; R-296728 on June 24, 2002; R-295078 on June 19, 2001; and R-293352 on June 20, 2000.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:
Not applicable.

Boekamp/Haas

Staff: Dave Zoumaras - (619) 533-5100
Jeremy Jung - Deputy City Attorney

FILE LOCATION: MEET

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

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

ITEM-333: Pacific Highlands Ranch Public Facilities Financing Plan.

(See Report to the City Council No. 06-078. Pacific Highlands Ranch Public Facilities Financing Plan FY 2006. Pacific Highlands Ranch Community Area. District 1.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2006-1075 Cor. Copy) ADOPTED AS RESOLUTION R-301608

Approving the document entitled "Pacific Highlands Ranch Public Facilities Financing Plan and Facilities Benefit Assessment, FY 2006"

Subitem-B: (R-2006-1076 Cor. Copy) ADOPTED AS RESOLUTION R-301609

Resolution of Intention to designate an area of benefit in Pacific Highlands Ranch and setting the time and place for holding a public hearing thereon.

**STAFF SUPPORTING INFORMATION:**

The Public Facilities Financing Plan details the public facilities that will be needed through the ultimate development of Pacific Highlands Ranch. Pacific Highlands Ranch is an area in the early stages of development where significant infrastructure construction has occurred. This plan revises and updates the Fiscal Year 2005 Plan (R-299980 dated December 7, 2004). The objective of the FBA is to insure that funds will be available in sufficient amounts to provide community facilities when needed. The FBA will be collected at the building permit issuance stage of development and deposited into a special interest earning fund for Pacific Highlands Ranch.

The Proposed Public Facilities Financing Plan and Facilities Benefit Assessment includes the prioritization of FBA funding so that all of the projects required by the 1,900 dwelling units associated with the transportation phasing plan are funded by those 1,900 dwelling units. This prioritization, along with cost increases that are a result of unprecedented rises in cost of construction and materials, necessitates a revision in the rate of the assessment resulting in an increase of 100%.

Should the City Council not approve the proposed Pacific Highlands Ranch Public Facilities Financing Plan, Fiscal Year 2006, then the existing fees would remain in place and new development would not be contributing its proportional share for new facilities identified in the Pacific Highlands Ranch (Subarea III) Plan. Alternative funding sources would have to be identified to fund the share of the identified facilities attributable to new development.

The proposed assessments for Fiscal Year 2006 are as follows:

| LAND USE | CURRENT ASSESSMENT | PROPOSED ASSESSMENT per UNIT/ACRE in FY 2006 DOLLARS |
|---|---|---|
| SINGLE FAMILY UNITS | $31,056 | $62,112 |
| MULTI-FAMILY UNITS | $21,740 | $43,480 |
| DEL MAR HIGHLANDS ESTATES | $21,119 | $42,237 |
| VILLAGE ACRES | $250,563 | $501,127 |
| INSTITUTIONAL ACRES | $89,088 | $178,176 |
| EMPLOYMENT CENTER ACRES | $167,041 | $334,081 |

FISCAL CONSIDERATION:
Adoption of this revised Public Facilities Financing Plan will continue to provide a funding source for the public facilities identified in the Pacific Highlands Ranch (Subarea III) Plan.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:
None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
On June 13, 2006, the Carmel Valley Planning Group (CVPG) voted (7-2) to support changes to the Pacific Highlands Ranch Transportation Phasing Plan, a part of the Pacific Highlands Ranch Public Facilities Financing Plan, Fiscal Year 2006, associated with the sub-threshold conditions regarding the status of the State Route 56 North Ramps in exchange for sub-thresholds regarding the status of Fire Station 47. The CVPG also supports the addition of $100,000 of Pacific Highlands Ranch FBA toward funding the preliminary engineering effort of the wildlife undercrossing, which is a part of the El Camino Real Widening (Half Mile Drive to San Dieguito Road) project in this plan.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:
All property owners with remaining new development are listed on the Pacific Highlands Ranch Public Facilities Financing Plan, Fiscal Year 2006 Assessment Roll, starting on page 225 and will have received notice and a copy of this document in the mail. These property owners will have liens placed on their property and will be required to pay Facility Benefit Assessments upon any building permit issuance when developing their property. Any redevelopment which increases the intensity of existing uses may be subject to an impact fee per Attachment 2.

Waring/Anderson/FVJ

Staff: Frank January – (619) 533-3699
David Miller-Deputy City Attorney

FILE LOCATION: STRT-FB-20 (33)

COUNCIL ACTION: (Time duration: 11:19 a.m. – 11:20 a.m.)

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

ITEM-334: Black Mountain Ranch North Maintenance Assessment District Formation.

(See Report to the City Council No. 06-040. Black Mountain Ranch Community Area. District 1.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2006-801) ADOPTED AS RESOLUTION R-301612

Resolution considering the protests, approving Assessment Engineer's Report, confirming the assessments, and ordering the improvements, maintenance and/or services, in the matter of the Black Mountain Ranch North Maintenance Assessment District.

Subitem-B: (R-2006-799) ADOPTED AS RESOLUTION R-301613

Resolution approving Fiscal Year 2007 Budget for the Black Mountain Ranch North Maintenance Assessment District.

Subitem-C: (R-2006-798) ADOPTED AS RESOLUTION R-301614

Resolution authorizing the City Auditor and Comptroller to establish the Black Mountain Ranch North Maintenance Assessment District Fund (Fund No. 70270);

Authorizing the City Auditor and Comptroller to appropriate and expend Fund No. 70270, Black Mountain Ranch North Maintenance Assessment District Fund;

Certifying that this activity is not a project and therefore exempt from CEQA pursuant to State Guidelines Section 15060(c)(3).

**STAFF SUPPORTING INFORMATION:**

This action authorizes the ballot protest proceedings to form the Black Mountain Ranch North Maintenance Assessment District (District). If approved by a property owner vote, this action also authorizes the Fiscal Year 2007 assessment and budget.

The District is located in the Black Mountain Ranch Community Planning Area roughly along the Camino del Sur corridor from the bridge north of San Dieguito Road to the city limits near 4S Ranch.

The purpose of the District is to find the enhanced maintenance of identified street lighting improvements such as decorative acorn style and cobra style fixtures.

FISCAL CONSIDERATIONS:
Approximately $191,475 will be assessed to the property owners within the District in Fiscal Year 2007. The City owns no assessable parcels in the district, so there is no General Fund impact. The proposed Fiscal Year 2007 budget for the District is as follows:

| | FY 2007 | Maximum Authorized |
|---|---|---|
| **EXPENSES** | | |
| Maintenance | $62,453 | $92,475 |
| Utilities (energy) | $24,540 | $33,060 |
| Pole Replacement Program (CIP fund) | $28,000 | $28,000 |
| Formation/Re-Engineering Costs | $35,000 | $35,000 |
| Administration-Personnel & Incidentals | $7,206 | $7,440 |
| **TOTAL EXPENSES** | **$157,199** | **$195,975** |
| | | |
| **REVENUES** | | |
| Assessments* | $191,475 | $246,045 |
| City Contribution (general benefit energy) | $15,480 | $21,660 |
| **TOTAL REVENUES** | **$206,955** | **$267,705** |
| **FUND BALANCE AND RESERVES** | **$49,756** | **$71,730** |

*The proposed Fiscal Year 2007 assessments and maximum authorized assessments are permitted to increase annually at a rate equivalent to the San Diego Consumer Price Index-Urban (SDCPI-U) plus 3%.

The "City Contribution – General Benefit Energy" in the revenue section of the budget table represents the cost to energize the lights that would have been in place regardless of whether the district was formed or not. These lights are spaced in accordance with the requirements set forth in the City's Street Design Manual. The City cannot assess for these standard lights, since it is a general benefit.

Annual assessments were calculated by an assessment engineer for parcels within the District and are based on each parcel's equivalent benefit unit (EBU), which is equivalent to one single family dwelling unit. The proposed rates would vary between $8.76 and $129.36 per EBU based on the proximity of the property to special street lighting along arterial corridors, presence of local lighting in certain neighborhoods, parcel land use, and acreage of non-residential properties.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
Approximately 82% of the proposed district is owned by the developer, Black Mountain Ranch, LLC. The remaining 18% of property owners were informed by the developer.

KEY STAKEHOLDERS & PROJECTED IMPACTS:
The key stakeholder in this area is the developer of this master planned community, Black Mountain Ranch, LLC. When the developer sells units within the district, potential buyers will be informed of the maintenance assessment district.

Medina/Martinez/CB

Staff: Clay Bingham – (619) 533-6724
Hilda Ramirez Mendoza – Deputy City Attorney

FILE LOCATION: STRT-M-499 (34)

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:36 a.m.;
2:03 p.m. – 2:04 p.m.)

Council President Peters opened the hearing.

Council President Peters closed the hearing and directed the City Clerk Liz Maland to tabulate the ballots.

City Clerk Elizabeth Maland announced that the election has been conducted according to the assessment proceedings. The ballots in favor exceed the ballots in opposition with a weighted majority vote in favor, and the proposed formation of the Black Mountain Ranch North Maintenance Assessment District and annual assessment has passed. Miss Maland certified the results and submitted them to the City Council.

MOTION BY ATKINS TO ADOPT THE RESOLUTIONS TO OVERRULE ANY PROTESTS TO THE LEVY OF ASSESSMENTS FOR THE BLACK MOUNTAIN RANCH NORTH MAINTENANCE ASSESSMENT DISTRICT, APPROVE THE SUBMITTED ASSESSMENT ENGINEER'S REPORT, APPROVE THE DISTRICT MAP, AND AUTHORIZE THE LEVY OF ASSESSMENTS ASSOCIATED WITH THIS ITEM. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-not present.

ITEM-335: Camino Santa Fe Maintenance Assessment District Formation.

(See Report to the City Council No. 06-039. Mira Mesa Community Area. District 5.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2006-863) ADOPTED AS RESOLUTION R-301615

Resolution considering the protests, approving Assessment Engineer's Report, confirming the assessments, and ordering the improvements, maintenance and/or services, in the matter of the Camino Santa Fe Maintenance Assessment District.

Subitem-B: (R-2006-862) ADOPTED AS RESOLUTION R-301616

Resolution approving Fiscal Year 2007 Budget for the Camino Santa Fe Maintenance Assessment District.

Subitem-C: (R-2006-864) ADOPTED AS RESOLUTION R-301617

Resolution authorizing the City Auditor and Comptroller to establish the Camino Santa Fe Maintenance Assessment District Fund (Fund No. 70264);

Authorizing the City Auditor and Comptroller to appropriate and expend Fund No. 70264, Camino Santa Fe Maintenance Assessment District Fund;

Certifying that this activity is not a project and therefore exempt from CEQA pursuant to State Guidelines Section 15060(c)(3).

**STAFF SUPPORTING INFORMATION:**

This action authorizes the ballot protest proceedings to form the Camino Santa Fe Maintenance Assessment District (District). If approved by a property owner vote, this action also authorizes the Fiscal Year 2007 assessment and budget.

The District is located in the Mira Mesa Community Planning Area roughly along the Camino Santa Fe corridor south of Mira Mesa Boulevard and north of Miramar Road.

The purpose of the District is to find the enhanced maintenance of landscaped and hardscaped improvements, including medians, sidewalks, slopes, curbs, and gutters.

FISCAL CONSIDERATIONS:
Approximately $240,000 will be assessed to the property owners within the District in Fiscal Year 2007. The City owns no assessable parcels in the district, so there is no General Fund impact. The district will be entitled to a contribution from Gas Tax Fund 30219 in the amount of $11,053. These funds will be requested as part of the Fiscal Year 2007 Budget Process. The proposed Fiscal Year 2007 budget for the District is as follows:

| | **FY 2007** | **Maximum Authorized** |
|---|---|---|
| **EXPENSES** | | |
| Personnel | $10,829 | $17,645 |
| Contract | $113,792 | $184,189 |
| Incidentals | $27,784 | $45,038 |
| Energy and Utilities | $18,981 | $30,853 |
| Infrastructure Outlay (Yearly Contribution) | $7,500 | $7,500 |
| District Formation Costs | $30,000 | $30,000 |
| **TOTAL EXPENSES** | **$208,886** | **$315,225** |
| | | |
| **REVENUES** | | |
| Assessments* | $240,000 | $360,000 |
| Gas Tax | $11,053 | $14,930 |
| Interest | $2,000 | $3,500 |
| **TOTAL REVENUES** | **$253,053** | **$378,430** |
| **FUND BALANCE AND RESERVES** | **$44,167** | **$63,205** |

*The proposed Fiscal Year 2007 assessments and maximum authorized assessments are permitted to increase annually at a rate equivalent to the San Diego Consumer Price Index-Urban (SDCPI-U) plus 3%.

Annual assessments were calculated by an assessment engineer for parcels within the District and are based on each parcel's equivalent benefit unit (EBU), which is equivalent to one single family dwelling unit. This rate is impacted by parcel land use, benefit, acreage of non-residential properties, and location of properties. The proposed rate for Fiscal Year 2007 would be $191.82 per EBU. Parcels within Zone 2 would receive a lower level of benefit due to their distance from the improvements.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS**:**
The majority of the assessment will be borne by the primary current and future developers of the area: H.G. Fenton, Biosite Inc., and Hanson Aggregates. All remaining property owners were invited to an informational session hosted by the developer on March 29, 2006. The Mira Mesa Maintenance Assessment District Advisory Committee endorsed the proposed district formation on March 7, 2006. The Mira Mesa Town Council also endorsed the proposed district on April 3, 2006.

KEY STAKEHOLDERS & PROJECTED IMPACTS:
The key stakeholders in this area are the developer of the business park (H.G. Fenton), Biosite, and Hanson Aggregates. After mining is completed at Hanson Aggregates, the parcels are likely to be developed. When the developers sell units within the district, potential buyers will be informed of the maintenance assessment district through escrow.

Medina/Martinez/CB

Staff: Clay Bingham – (619) – 533-6724
Hilda Ramirez Mendoza –Deputy City Attorney

FILE LOCATION: STRT-M-508 (34)

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:44 a.m.;
2:04 p.m. – 2:06 p.m.)

Council President Peters opened the hearing.

Testimony in favor by Allen Jones.

Testimony in opposition by Phil Teyssier.

Council President Peters closed the hearing and directed the City Clerk Liz Maland to tabulate the ballots.

City Clerk Elizabeth Maland announced that the election has been conducted according to the assessment proceedings. The ballots in favor exceed the ballots in opposition with a weighted majority vote in favor, and the proposed formation of the Camino Santa Fe Maintenance Assessment District and annual assessment has passed. Miss Maland certified the results and submitted them to the City Council.

MOTION BY MAIENSCHEIN TO ADOPT THE RESOLUTIONS TO OVERRULE ANY PROTESTS TO THE LEVY OF ASSESSMENTS FOR THE CAMINO SANTA FE MAINTENANCE ASSESSMENT DISTRICT, APPROVE THE SUBMITTED ASSESSMENT ENGINEER'S REPORT, APPROVE THE DISTRICT MAP, AND AUTHORIZE THE LEVY OF ASSESSMENTS ASSOCIATED WITH THIS ITEM. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-not present.

ITEM-336: Three actions related to Disposition and Development Agreement and Associated Actions for La Entrada Family Housing Project.

(See Redevelopment Agency Report RA-06-27/RTC-06-065 and memorandum from Carol A. Leone dated 6/22/2006. Barrio Logan Community Area. District 8.)

**REDEVELOPMENT AGENCY'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2006-1066) CONTINUED TO TUESDAY, JULY 11, 2006

Certifying that the information contained in Mitigated Negative Declaration No. 93861 has been completed in compliance with the California Environmental Quality Act and State CEQA Guidelines, and that said report reflects the independent judgment of the City of San Diego as Lead Agency;

Stating for the record that the Mitigated Negative Declaration has been reviewed and considered prior to approving the project and Disposition and Development Agreement;

Adopting the Mitigation, Monitoring and Reporting Program.

Subitem-B: (R-2006-1067) CONTINUED TO TUESDAY, JULY 11, 2006

Approving the Redevelopment Agency entering into a Disposition and Development Agreement for La Entrada Family Apartments Project in the Barrio Logan Redevelopment Project Area, subject to analysis and written sign-off from the City Attorney relating to certain issues; approving the sale of property in the Barrio Logan Redevelopment Project Area pertaining thereto; and making certain findings with respect to the Disposition and Development Agreement and Sale.

Subitem-C: (R-2006-1068) CONTINUED TO TUESDAY, JULY 11, 2006

Accepting the Findings of Benefit set forth in Attachment A, and incorporated herein by this reference;

Declaring the Project's Set Aside Funds shall be utilized for proposed development of La Entrada Family Apartments in the Barrio Logan Redevelopment Project Area.

**SUPPORTING INFORMATION:**

A Disposition and Development Agreement is proposed to authorize and obligate the Redevelopment Agency to assist La Entrada Family Housing Project by acquiring real properties, providing relocation assistance for existing residents and businesses on the project site and providing financial assistance with a residual receipts loan in an amount not to exceed $13,167,000.

The developer is a partnership comprised of United Community, Inc. and Simpson Housing Solutions. They are proposing the development of a new 85 unit rental housing project on the 1700 block of Logan Avenue within the Barrio Logan Redevelopment Project Area.

The project is proposed to include 13 two bedroom units, 60 three bedroom units and 12 four bedroom units and restrict rents for 55 years to levels affordable to households earning up to 30%, 40%, 50% and 60% of area median income. The proposed project would also include a large landscaped inner courtyard, community center, underground parking, usable rooftop terrace space, public art features and other amenities. The project operator will provide social service and educational enrichment programs for on site residents. Existing uses on site are 14 residential units interspersed with various commercial uses. The project budget includes $1 million for estimated soil remediation costs as projected by on site Phase I and Phase II soil studies.

FISCAL CONSIDERATIONS:
The total project is estimated to cost $37,941,000 and is proposed to be funded with Affordable Housing 9% tax credits, private financing, deferred developer fee, Federal Home Loan Bank Affordable Housing Program funds, City Inclusionary Housing In-Lieu funds as well as Agency tax increment housing set aside funds. The developers plan to apply to the State for tax credits in mid-July 2006. Project savings and/or additional revenues will be used to reduce the Agency financing contribution.

Keyser Marston Associates has been used to verify the validity of the project pro forma and prepare legally required reuse appraisal and 33433 reports. This work supports the project cost estimates and verifies that the project financing terms are substantially consistent with the financing guidelines provided for the Agency Collaborative Affordable Housing Program.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
On May 16, 2006, the Agency approved the Replacement Housing Plan and an extension of the Exclusive Negotiating Agreement with United Community, Inc. for this project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
The Barrio Logan Project Area Committee has voted 8-1-1 to recommend approval of the proposed DDA and implementation of the project as proposed. The Centre City Advisory Committee voted 14-7 to recommend approval of the use of up to $13,167,000 of Centre City housing set aside funds to fund the project.

On May 24, 2006, the Centre City Development Corporation Board voted unanimously to recommend the use of up to $13,167,000 of Centre City housing set aside funds for this project subject to the Agency reimbursing CCDC for the entire expenditure when the Agency issues financing for housing set aside funds outside of the Centre City project area.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
The project is expected to provide significant community enhancement and valuable affordable housing for the Barrio Logan community.

Ostrye/Waring

**NOTE:** See the Redevelopment Agency Agenda of June 27, 2006 for a companion item.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:48 p.m. – 2:53 p.m.)

MOTION BY HUESO TO CONTINUE TO TUESDAY, JULY 11, 2006, FOR FURTHER REVIEW. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-337: Golden Hill Elementary School Street and Easement Vacations and Street Dedications.

Matter of approving, conditionally approving, modifying or denying an application for a Right-of-Way Vacation to vacate an eastern portion of "B" Street, from mid-block between 32nd and 33rd Streets east to 33rd Street, and portions of unnamed alleys between "C" and "A" Streets, three, 3-foot wide sewer easements, two, 10-foot wide sewer easements, and a slope and maintenance easement. The vacations are located north of "C" Street, south of "A" Street, and from mid-block between 32nd and 33rd Streets east to 33rd Street in the RS-1-7 Zone of the Greater Golden Hill Community Plan Area.

(See Report to the Council No. 06-119. Golden Hill Community Plan Area. District 8.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-448 Corr. Copy) ADOPTED AS RESOLUTION R-301618

Adoption of a Resolution certifying that the Council finds that certain map surveyed by Thomas A. Jones, licensed Land Surveyor, titled "Parcel Map W.O. No. 421734" (MAP), being a lot consolidation of portions of Lots 1 to 12 inclusive and Lots 38 to 48 and portions of Lots 13, 36 and 37 in Block 122 and Lots 1 to 9 and Lots 40 to 48, inclusive and portions of Lots 10, 11, and 39 in Block 123 of Choates Addition to Portion PL 1151 according to map thereof No. 167 filed in the Office of the County Recorder of San Diego County November 20, 1886, and together with portions of "A" Street, "B" Street, "C" Street, 33rd Street and unnamed alleys as dedicated to public use;

That those portions of "B" Street and portions of the unnamed alleys in blocks 122 and 123 as dedicated to public use per Map No. 167 recorded November 20, 1886, of official records; the sewer easement granted to the City of San Diego per Document No. 26458, in Book 1005, Page 171, recorded June 18, 1924, of deeds; the sewer easement granted to the City of San Diego per Document No. 154015, in Book 5046. Page 318, recorded November 13, 1953, of official records; the sewer easement granted to the City of San Diego per Book 5805, Page 97, and accepted by Resolution No. 128557 in Book 5805, Page 96, recorded

September 23, 1955, of official records; the slope and maintenance easement granted to the State of California per Document No. 114969, in Book 6689, Page 257, recorded August 1, 1957, and relinquished to the City of San Diego per Document No. 267478, in Book 8068, Page 199, recorded December 29, 1959, of official records are not shown within this map because they have been vacated pursuant to Section 66445(j) of the Subdivision Map Act;

That a portion of "A" Street, a portion of "C" Street, and a portion of 33rd Street are dedicated to public use as public street and appurtenances thereto, all as shown on this map;

That the City Clerk shall cause a certified copy of this resolution, with attached exhibits attested by her under seal, to be recorded in the Office of the County Recorder;

That prior to the recordation of the street vacation of the approval of any parcel map, and issuance of any building permit the applicant shall cut, plug and abandon all unused water services affected by the vacated portion of Alley public right-of-way between "A" Street and "B" Street, between 33rd Street and Wabash Freeway. The cut, plug and abandonment shall be within "A" Street public right-of-way and must be in a manner which will receive operational acceptance by the Water Department, satisfactory to the Water Department Director;

That prior to the recordation of the street vacation or the approval of any parcel map, and issuance of any building permit the applicant shall cut, plug and abandon all unused water services and water main affected by the vacated portion of the "B" Street public right-of-way, between 32nd Street and 33rd Street. The cup, plug and abandonment of all unused water services and water main shall be within the vacated portion of the "B" Street public right-of-way and must be in a manner which will receive operational acceptance by the Water Department, satisfactory to the Water Department Director;

That the applicant shall assure by permit and bond the installation of all public improvements as shown more particularly on Drawing No.'s 32719-D (J.O. 421734) and 32938-D (J.O. 422325) respectively in a manner satisfactory to the City Engineer;

That the City Clerk is directed to transmit the map to the County Recorder of the County of San Diego, California, for recordation;

This activity is covered under Brooklyn/Kimbrough Area Elementary School Environmental Impact Report SCH No. 1999101113 dated September 2001, certified by Board of Education on September 25, 2001, and Addendum dated June 2002 and Certified by Board of Education, June 11, 2002. The activity is adequately addressed in the environmental documents and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental documents adequately covered this activity as part of the previously approved project, the activity is not a separate project for purposes of CEQA review per CEQA Guidelines Sections 15060(c)(3) and 15378(c).

**STAFF SUPPORTING INFORMATION:**

The San Diego School District is administering Proposition MM, a 1998 bond initiative passed by the electorate to construct 13 new schools, redevelop three existing school sites, and modernize, and upgrade the existing school site inventory. The Prop MM school sites require parcel consolidation and the vacation of existing public rights-of-way (streets and alleys) to create the new school sites.

The School District is processing both discretionary and ministerial actions to comply with City of San Diego standards related to Right-of-Way vacations and public improvements respectively. The public improvements typically include curb, gutter and sidewalks. These ministerial public improvement actions and discretionary right-of-way (ROW) vacations are being processed concurrently to allow the School District to maintain the Prop MM construction schedule and facilitate various school opening dates.

Golden Hill Elementary School is a new school north of "C" Street, south of "A" Street, east of 32nd Street and west of 33rd Street in the Greater Golden Hill Community Plan Area. The rights-of-way to be vacated consist of an eastern portion of "B" Street between the 32nd Street Canyon and 33rd Street, and portions of unnamed alleys between "C" and "A" Streets, west of 33rd Street. Also included are three, 3-foot wide sewer easements, two, 10-foot wide sewer easements, and a slope and maintenance easement. The street dedications are needed to allow for the proper design of the "A", "C", and 33rd Streets.

To approve the requested vacations, the following four findings must be made.

1. There is no present or prospective use for the purpose for which the right of way was originally acquired.
2. The public will benefit from the vacation through improved utilization of land.
3. The vacation is consistent with the General Plan or an approved Community Plan.
4. The public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

City staff has confirmed that there is no present or prospective use for the right-of-way for which it was originally acquired and that no public use of a like nature is anticipated. Transportation staff has determined that the public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation. Proposition MM was approved by the voters and, in this area, would result in a new school for an older, established neighborhood.

In addition, new public improvements would be constructed around the school location. As such, the public would benefit from the vacation through improved utilization of the land.

The Golden Hill Community Plan recommends new school construction and that ROW vacations should not be allowed in designated open space. As the proposed ROW vacation would allow for construction of a new school and the vacation is not located within the designated open space, the project would be consistent with the plan.

FISCAL CONSIDERATIONS:
No cost to the city. A deposit has been collected from the applicant to cover the costs associated with processing the proposed projects.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
No previous City Council action.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
On January 9, 2005, the Greater Golden Hill Planning Committee voted 13-0-0 in favor of the Right-of-Way Vacation, with no recommendations. On April 13, 2006 the Planning Commission recommended approval the Right-of-Way Vacation, by a vote of 4-0.

KEY STAKEHOLDERS & PROJECTED IMPACTS:
San Diego City School District

Halbert/Waring/MD

Staff: Morris E. Dye – (619) 446-5201
David Miller – Deputy City Attorney

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

FILE LOCATION: DEED F-9995

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:46 p.m.)

MOTION BY ATKINS TO ADOPT. 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-338: Parkview.

Matter of approving, conditionally approving, modifying or denying an application for a Public Right-of-Way Vacation to vacate a portion of Yodel Lane, Tentative Map to create 11 residential lots, and Planned Development Permit to allow the deviation from minimum lot standards for the development of 11 single family homes on a 1.57 acre site located at 1229 Saturn Blvd in the RS-1-7 zone within the Otay Mesa-Nestor Community Plan. Transit Area, Coastal Height Limit, Residential Tandem Parking.

(See Report to the City Council No. 06-145. Otay Mesa-Nestor Community Plan Area. District 8.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2006-1041) ADOPTED AS RESOLUTION R-301619

Adoption of a Resolution adopting the findings with respect to PDP Permit No. 221897;

That Planned Development Permit No. 221897 is granted to Casey Development Inc., Owner/Permittee, under the terms and conditions set forth in the permit.

Subitem-B: (R-2006-1040) ADOPTED AS RESOLUTION R-301620

Adoption of a Resolution adopting findings with respect to Tentative Map No. 221903;

That pursuant to Government Code Section 66434(g), portions of Yodel Lane, located within the project boundaries as shown in Tentative Map No. 221903, shall be vacated, contingent upon the recordation of the approved final map for the project, based on the following findings:

1. There is no present or prospective public use for the public right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated.
2. The public will benefit from the action through improved use of the land made available by the vacation.
3. The vacation does not adversely affect any applicable land use plan.
4. The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.

That Tentative Map No. 221903 is granted to Casey Development Inc., Applicant/Subdivider and K&S Engineering, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

**OTHER RECOMMENDATIONS:**

Planning Commission on May 18 , 2006, voted 7-0 to approve; no opposition.

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

The Otay Mesa-Nestor Community Planning Group has recommended approval of this project.

**STAFF SUPPORTING INFORMATION:**

The project proposes the development of 11 single family homes on individual lots. The site is located at 1222 Saturn Boulevard in the RS-1-7 zone within the Otay Mesa-Nestor Community Planning area south of Coronado Avenue and north of Lieder Drive. The site is a remnant parcel of land located between established subdivisions. The shape of the lot is asymmetrical with Yodel Lane ending in a cul-de-sac adjacent to the east side of the property, Switzerland Drive terminating into the lot on the south and an existing lot with an existing residence to the north. Project implementation requires the following approvals: A Tentative Map is required in accordance with San Diego Municipal Code Section 125.0440 to subdivide the single lot into 11 parcels; A Planned Development Permit is required to allow for a deviation to lot standards including a reduction to lot frontage, lot area, and lot width for nine of the 11 lots; and a Public Right-of-Way Vacation to vacate a portion of the Yodel Lane cul-de-sac.

FISCAL CONSIDERATIONS:
None associated with this action. All costs associated with the processing for this project are paid by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
On May 18, 2006, the Planning Commission recommended approval of the project by a vote of 7-0-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
On October 5, 2005, the Otay Mesa-Nestor Community Planning Committee voted 12-0-0 to recommend approval of the project.

KEY STAKEHOLDERS & PROJECTED IMPACTS:
Corey Casy, Owner

Halbert/Waring/WZ

Staff: William Zounes – (619) 687-5942
Shannon M. Thomas– Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:46 p.m. – 2:47 p.m.)

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

* ITEM-S500: JAG Grant (Edward Byrne Memorial Justice Assistance Grant).

(Continued from the meeting of June 20, 2006, Item 106, at the request of the City Council, for further review.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-1002) ADOPTED AS RESOLUTION R-301610

Authorizing and empowering the City Auditor and Comptroller, and Chief Operating Officer (or her designee), for and on behalf of the City of San Diego, to apply for, accept, and expend the JAG (Justice Assistance Grant) funds from the U.S. Department of Justice;

Authorizing the City Auditor and Comptroller, and Chief Operating Officer (or her designee) to execute all aspects of program operation, including any amendments, extensions, or renewals, for a period of up to five years, provided continued funding is made available, and to certify that the City will comply with all applicable statutory or regulatory requirements related to the JAG program;

Authorizing the City Auditor and Comptroller to transfer $306,377 of these grant funds to the County of San Diego to assist in the operation of Drug Courts;

Declaring any resources received under the JAG program shall be used to supplement and not to supplant expenditures controlled by this body; and that personnel positions, if any, funded under this grant are not subject to local hiring freezes.

**STAFF SUPPORTING INFORMATION:**

The new Justice Assistance Grant replaces the former LLEBG Grant. Due to special conditions of the legislation, the City and County of San Diego allocation is combined into a single grant of $957,751. The City and County are required to reach agreement on how to divide and use the funds, and to submit a joint application. The City and County have agreed to the following approximate allocations and application:

**CITY:** Total allocation to City of $651,374 (68%) will be used for police automation, vehicle, safety, forensic, personnel, training, and miscellaneous equipment, maintenance and resources as needs are identified. Expenditures will contribute to the safety and efficiency of law enforcement and crime prevention services throughout San Diego.

**COUNTY:** Total Allocation to the County = $306,377 (32%) will be used for Drug Court expenses, including a Probation Officer to be assigned to SDPD Gang Unit, and to make the current CROP Probation Officers at Central and Southern Division full time.

**FISCAL IMPACT:**

The City has agreed to serve as Fiscal Agent. This will result in minor administrative costs that will be absorbed by the regular budget and staff. There is no requirement for matching funds, and no requirement to continue grant funded activities, expenditures or programs after grant funds are depleted or terminated. Federal law requires that these funds supplement and not supplant funds otherwise available to law enforcement.

Froman/Lansdowne/DJW

Staff: Donna J. Warlick - (619) 531-2221
Joan F. Dawson - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:51 a.m.)

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

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 2:56 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:56 p.m.)