

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, NOVEMBER 20, 2006
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Table of Contents

| | |
|--|----|
| CHRONOLOGY OF THE MEETING..... | 2 |
| ATTENDANCE DURING THE MEETING..... | 2 |
| ITEM-1: ROLL CALL..... | 3 |
| ITEM-10: INVOCATION..... | 3 |
| ITEM-20: PLEDGE OF ALLEGIANCE..... | 3 |
| CLOSED SESSION ITEMS..... | 4 |
| ITEM-200: In the Matter of Take Back the Streets Program and Contract..... | 8 |
| ITEM-201: Amendment to the Pacific Highlands Ranch Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2006..... | 9 |
| ITEM-202: Amendment to the Del Mar Mesa Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2006..... | 11 |
| ITEM-250: Notice of Pending Final Approval - Environmental Services Department Business Process Reengineering Report | 13 |
| ITEM-251: Notice of Pending Final Map Approval – 311 Cottonwood Road | 14 |
| REPORT OUT OF CLOSED SESSION..... | 15 |
| NON-DOCKET ITEMS..... | 15 |
| ADJOURNMENT..... | 16 |

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:04 p.m. Council President Peters recessed the meeting at 2:14 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 2:15 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 3:11 p.m.

ATTENDANCE DURING THE MEETING:

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

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

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

FILE LOCATION: MINUTES



ITEM-10: INVOCATION

Invocation was given by Reverend Jim Gilbert of Fairmount Baptist Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Maienschein.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(a):

**CS-1 *County of San Diego v. Redevelopment Agency of the City of San Diego, et al.*
San Diego Superior Court Case No. GIC 850259**

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 21, 2006

DCA Assigned: G. Spitzer

This litigation regards the validity of City Council's adoption of the Grantville Redevelopment Plan, Ordinance No. O-19380. In closed session the City Attorney will provide a status of the litigation pursuant to the City Council's request.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:13 p.m.)

Council President Peters closed the hearing.

**CS-2 *Michael Shames v. City of San Diego*
San Diego Superior Court Case No. GIC 831539**

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 21, 2006

DCA Assigned: J. Riley

This case involves an alleged over billing of single-family sewer customers in violation of the state constitution and a breach by the City of San Diego of loan and grant contracts from the State of California and the Federal Government. In closed session, the City Attorney will update the City Council related to the mediation process and seek approval of the proposed settlement.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:13 p.m.)

Council President Peters closed the hearing.

**CS-3 *Boat Depot, Inc v. City of San Diego./SMCM Partners GP v. City of San Diego*
Consolidated under San Diego Superior Court Case No. GIC 846472**

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 21, 2006

DCA Assigned: W. Donnell

This matter involves a claim for flood damages at 4025-4035 Pacific Highway, resulting from the failure of the storm drain system on October 27, 2004. The City Attorney requests that the Mayor and City Council consider a possible settlement of the case in closed session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:13 p.m.)

Council President Peters closed the hearing.

**CS-4 *El Cortez Property Owners Association, et al. v. Center City Development Corporation, Redevelopment Agency of the City of San Diego, City of San Diego*
San Diego Superior Court Case No. GIC873710**

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 21, 2006

DCA Assigned: M. Dickenson

This matter is a complaint for declaratory and injunctive relief regarding an agreement between the Redevelopment Agency and the owner of certain real property commonly known as El Cortez. The City Attorney will update the city council on the status of the litigation in closed session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:13 p.m.)

Council President Peters closed the hearing.

Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code Section 54956.9(b):

**CS-5 *City Heights Square, L.P. et al. vs. City of San Diego*
City Files #LP06-0705-2384**

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 21, 2006

DCA Assigned: R. Palmucci

This is a water main break which caused flood damage to the real and personal property of City Height Square, L.P., at the southeast corner of 43rd Street and Polk Avenue in the City Heights area of San Diego. The City Attorney requests that the City Council consider a possible settlement of the case in closed session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:13 p.m.)

Council President Peters closed the hearing.

CS-6 *Settlement of Contractual Claims on Mid-City Transit Facilities – El Cajon Blvd. and University Avenue Projects.*

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 21, 2006

DCA Assigned: M. Wright-Travis

This matter involves the construction of Mid-City Transit Facilities projects. The contractor submitted two contractual claims requesting monies for delay and extra work. In closed session, the City Attorney will advise the City Council on the status of the matter and seek appropriate direction for resolution of the matters.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:13 p.m.)

Council President Peters closed the hearing.

**CS-7 Brian Lehmkuhler, Claim No. LP06-0534-1397
Rudy Leisch, Claim No. LP06-0534-1298
Gabby Lopez, Claim No. LP07-0534-0688**

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 21, 2006

DCA Assigned: C. Brock

The above claims for property damage arise from failure of a corrugated metal storm drain pipe in the South Bay area, on property located at or near the 1300 block of Del Sol Lane. Property damage occurred at 1334, 1344 Del Sol Lane and 3296 Clavelita Street. In closed session the City Attorney will seek authority to settle property damage claims.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:13 p.m.)

Council President Peters closed the hearing.

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

CS-8 Agency Negotiator: Scott Chadwick, J. Rod Betts, Lisa Briggs, Rich Snapper, Jessica Falk Michelli William Gersten, Joe Harris, Rick Reynolds

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

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 21, 2006

DCA Assigned: W. Gersten

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

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:13 p.m.)

Council President Peters closed the hearing.



ITEM-200: In the Matter of Take Back the Streets Program and Contract.

(See memorandum from Councilmember Frye dated 9/27/2006; Fact Sheets dated 6/7/2006 and 4/12/2006; and Independent Budget Analyst Report No. 06-9. Citywide.)

(Continued from the meeting of October 17, 2006, Item 330, at the request of the Deputy City Attorney, for further review.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Take the following actions:

RETURNED TO THE MAYOR

A discussion and possible direction and action on the Take Back the Streets program and contract;

Directing the City Attorney to prepare the appropriate resolution in accordance with Charter Section 40.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:15 p.m. – 3:10 p.m.)

MOTION BY MADAFFER TO RETURN THE ITEM TO THE MAYOR REQUESTING FURTHER ACTION IN FINDING A SOLUTION THAT SATISFIES COUNCIL'S DIRECTION AND DESIRE AS STATED IN THE BUDGET PROCESS TO CONTINUE TO FUND "TAKE BACK THE STREETS" AND BRING THIS ITEM BACK TO COUNCIL BEFORE THE END OF JANUARY 2007. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-201: Amendment to the Pacific Highlands Ranch Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2006.

(See Report to the City Council No. 06-164. Amendment of the Pacific Highlands Ranch Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2006. Pacific Highlands Ranch Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-522) ADOPTED AS RESOLUTION R-302097

Adoption of a resolution amending the Pacific Highlands Ranch Public Facilities Financing Plan and Facilities Benefit Assessment for Fiscal Year 2006.

STAFF SUPPORTING INFORMATION:

On September 20, 2005, per R-300857, the City Council authorized a reimbursement agreement with Pardee Homes for the design and construction of Pacific Highlands Ranch Fire Station 47. On July 14, 2006, four bids were received and opened for the project. The lowest responsible construction bid by Tovey/Schultz Construction was for \$5,200,000, which is \$1,190,000 over the construction estimate. Offsetting this difference with \$284,800 from project contingency, the additional required funding to complete the project is \$905,200.

\$86,500 represents the Torrey Highlands contribution toward the \$905,200 increase in the project budget. The \$86,500 increase is included in the \$836,500 Torrey Highlands FBA funding identified in the Torrey Highlands Public Facilities Financing Plan for FY 2007, which was approved under a separate Council action on November 14, 2006.

\$87,500 represents the Del Mar Mesa contribution toward the \$905,200 increase in the project budget. The \$87,500 increase is included in the \$944,500 Del Mar Mesa FBA funding identified in the amendment to the Del Mar Mesa Public Facilities Financing Plan for FY 2006, which is being considered under a separate Council action and must be approved to provide funding for the Fire Station 47 project.

\$731,200 represents the Pacific Highlands Ranch contribution toward the \$905,200 increase in the project budget. No change to the Pacific Highlands Ranch Facilities Benefit Assessment schedule is required by this amendment.

This action will authorize the expenditure of an additional \$731,200 in Pacific Highlands Ranch FBA funding for the total project cost of \$8,995,200, which includes land acquisition, design and construction, fire apparatus and furnishings. The total project budget is funded as follows:

| | |
|---|--------------------------|
| FUND 79011 (Pacific Highlands Ranch FBA): | FY2006 - \$2,138,243 |
| | FY2007 - \$5,075,957 |
| FUND 79015 (Torrey Highlands FBA): | FY2007 - \$836,500 |
| FUND 79010 (Del Mar Mesa FBA): | FY2008 - \$944,500 |
| | <u>TOTAL</u> \$8,995,200 |

FISCAL CONSIDERATION:

Adoption of the amendment to the Pacific Highlands Ranch Facilities Financing Plan, Fiscal Year 2006 will continue to provide a funding source for the public facilities identified for the Pacific Highlands Ranch Community.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The City Council approved the Pacific Highlands Ranch Public Facilities Financing Plan for Fiscal Year 2006 on June 27, 2006, per R-300501.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Currently, there is no planning group within the Pacific Highlands Ranch community.

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 beginning on page 225 of the Plan. These property owners have liens placed upon their property and will be required to pay Facility Benefit Assessments at building permit issuance when developing their property. The requested actions will not impact the required assessments in Pacific Highlands Ranch.

Waring/Anderson/FVJ

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

FILE LOCATION: STRT-FB-20 (33)

COUNCIL ACTION: (Time duration: 2:12 p.m. – 2:12 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-yea, Hueso-yea.



ITEM-202: Amendment to the Del Mar Mesa Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2006.

(See Report to the City Council No. 06-176. Amendment of the Del Mar Mesa Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2006. Del Mar Mesa Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-523) ADOPTED AS RESOLUTION R-302098

Adoption of a resolution amending the Del Mar Mesa Public Facilities Financing Plan and Facilities Benefit Assessment for Fiscal Year 2006.

STAFF SUPPORTING INFORMATION:

On September 20, 2005, per R-300857, the City Council authorized a reimbursement agreement with Pardee Homes for the design and construction of Pacific Highlands Ranch Fire Station 47. On July 14, 2006, four bids were received and opened for the project. The lowest responsible construction bid by Tovey/Schultz Construction was for \$5,200,000, which is \$1,190,000 over the construction estimate. Offsetting this difference with \$284,800 from project contingency, the additional required funding to complete the project is \$905,200.

\$86,500 represents the Torrey Highlands contribution toward the \$905,200 increase in the project budget. The \$86,500 increase is included in the \$836,500 Torrey Highlands FBA funding identified in the Torrey Highlands Public Facilities Financing Plan for FY 2007, which was approved under a separate Council action on November 14, 2006.

\$731,200 represents the Pacific Highlands Ranch contribution toward the \$905,200 increase in the project budget. The \$731,200 increase is identified in the \$7,214,200 Pacific Highlands Ranch FBA funding identified in the amendment to the Pacific Highlands Ranch Public Facilities Financing Plan for FY 2006, which is being considered under a separate Council action and must be approved to provide funding for the Fire Station 47 project.

\$87,500 represents the Del Mar Mesa contribution toward the \$905,200 increase in the project budget. No change to the Del Mar Mesa Facilities Benefit Assessment schedule is required by this amendment.

This action will authorize the expenditure of an additional \$87,500 in the Del Mar Mesa FBA funding for the total project cost of \$8,995,200, which includes land acquisition, design and construction, fire apparatus and furnishings. The total project budget as funded as follows:

| | | |
|---|---------------|------------------|
| FUND 79011 (Pacific Highlands Ranch FBA): | FY2006 | \$2,138,243 |
| | FY2007 | \$5,075,957 |
| FUND 79015 (Torrey Highlands FBA): | FY2007 | \$836,500 |
| FUND 79010 (Del Mar Mesa FBA): | <u>FY2008</u> | <u>\$944,500</u> |
| | TOTAL | \$8,995,200 |

FISCAL CONSIDERATION:

Adoption of the amendment to the Del Mar Mesa Public Facilities Financing Plan will continue to provide a funding source for the public facilities identified for the Del Mar Mesa Community.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The City Council approved the Del Mar Mesa Public Facilities Financing Plan for Fiscal Year 2006 on November 1, 2005 per R-301007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Community Planning Group is scheduled to hear this item on November 9, 2006.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

All property owners with remaining new development are listed on the Del Mar Mesa Public Facilities Financing Plan, Fiscal Year 2006 Assessment Roll. These property owners have liens placed upon their property and will be required to pay Facility Benefit Assessment upon building permit issuance when developing their property. The requested actions will not impact the required assessments in Del Mar Mesa.

Waring/Anderson/CS

Staff: Charlette Strong – (619) 533-3683
David E. Miller – Deputy City Attorney

FILE LOCATION: STRT-FB-16 (33)

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:13 p.m.)

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

ITEM-250: **Notice** of Pending Final Approval - Environmental Services Department Business Process Reengineering Report.

Notice is hereby given that city staff has completed a business process reengineering study of the Environmental Services Department functions. A copy of the Report to the City Council is available for public viewing at the Office of the San Diego City Clerk. The report's recommendations include:

- (1) Reorganization of the department into three operating divisions.
- (2) Increase span of control.
- (3) Standardize customer service and work order management processes.
- (4) Expand Data Warehouse "Octopus Model" to manage performance metrics.
- (5) Reduce the heavy class disposal feet.

This report will be approved and implemented unless the Council President or any four members of the Council request a public hearing on the report. Such hearing must take place and a determination made as to approve or reject the report within a review period of 60 days or five Council Meetings. At the conclusion of the review period and no hearing having been held, the Mayor will proceed with implementation of the BPR changes.

If you have questions about the Environmental Services Department Business Process Reengineering Report, please feel free to contact Rick Reynolds at (619) 236-5953.

ITEM-251: Notice of Pending Final Map Approval – 311 Cottonwood Road.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "311 Cottonwood Road" (T.M. No. 100046/PTS No. 94460), located on the west side of Cottonwood Road between South Vista Avenue and San Ysidro Boulevard in the San Ysidro Community Plan Area in Council District 8, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

