

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, NOVEMBER 28, 2006
AT 10:00 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 10:04a.m. The meeting was recessed by Council President Peters at 11:46 a.m. to convene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:08 p.m. with all Council Members present. Council President Peters recessed the meeting at 3:04 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 2:57 p.m. with all Council Members present. Council President Peters recessed the meeting at 3:03 p.m. to reconvene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 3:04 p.m. with all Council Members present. Council President Peters recessed the meeting at 3:04 p.m. for the purpose of a break. Council President Peters reconvened the regular meeting at 3:11 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 6:24 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 (pr/dlc)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

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

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Al Strohlein commented on Fresno's crackdown on DUI's.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:39 a.m.)

PUBLIC COMMENT-2:

Don Stillwell commented on MTS Bus Service and the Allied Gardens Community Council's position.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-3:

Hud Collins commented on the City's pension issues.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:42 a.m. – 10:45 a.m.)

PUBLIC COMMENT-4:

Hal Simon commented on street lights and water bills.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-5:

Ron Boshun commented on Council actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:48 a.m. – 10:53 a.m.)

PUBLIC COMMENT-6:

Phil Hart commented on the City's deficit and the pension fund.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:53 a.m. – 10:56 a.m.)

PUBLIC COMMENT-7:

Jarvis Ross commented on Council Member Young's service on the Airport Authority.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:56 a.m. – 10:59 a.m.)

PUBLIC COMMENT-8:

Kathryn Rose commented on an upcoming appeal scheduled for January 9, 2007, regarding the Navy Broadway complex.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:59 a.m. – 11:03 a.m.)

COUNCIL COMMENT:

None.

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

09/25/2006

09/26/2006

10/02/2006 – Adjourned

10/03/2006 – Adjourned

10/05/2006 – Special Meeting

10/09/2006

10/10/2006
10/16/2006 – Special Meeting
10/16/2006
10/17/2006
10/23/2006
10/24/2006
10/25/2006 – Special Meeting
10/30/2006 – Adjourned
10/31/2006 – Adjourned
11/06/2006 – Adjourned
11/07/2006 – Adjourned

FILE LOCATION: AGENDA

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

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

ITEM-31: Air Operations Division Day.

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-556) ADOPTED AS RESOLUTION R-302118

Honoring the donors of the San Diego Fire-Rescue Department's Air Operations Division and thanking them for their outstanding support and commitment to the San Diego community;

Proclaiming November 28, 2006, to be "Air Operations Division Day" in the City of San Diego.

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FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Time duration: 10:04 a.m. – 10:15 a.m.)

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

ITEM-32: Jeff Sturak Day.

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

Adopt the following resolution:

(R-2007-576) ADOPTED AS RESOLUTION R-302123

Congratulating and offering appreciation to Jeff Sturak;

Proclaiming November 28, 2006, to be "Jeff Sturak Day" in the City of San
Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:33 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-yea, Hueso-yea.

* ITEM-50: Fairbrook Estates Rezone Located on the South Side of Fairbrook Road, East of
Caminito Magnifica, in the Scripps Miramar Ranch Community Plan Area.

(Scripps Miramar Ranch Community Plan Area. District 5.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 11/14/2006, Item 337, Subitem D. (Council voted 8-0):

(O-2007-37) ADOPTED AS ORDINANCE O-19553 (New Series)

Changing the zones of a 12.06-acre site, located on the south side of Fairbrook Road, east of Caminito Magnifica, in the Scripps Miramar Ranch Community Plan Area, in the City of San Diego, California, from the RS-1-8 and RS-1-9 Zones (previously referred to as the R1-40000 and R1-20000 Zones) into the RS-1-12 and OP-1-1 Zones (previously referred to as the R1-8000 and OS-P Zones), as defined by San Diego Municipal Code Sections 131.0403 and 131.0202.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:04 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. 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-51: Joint Use Agreement with the Del Mar Union School District.

(Carmel Valley Community Area. District 1.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 11/14/2006, Item 51. (Council voted 8-0):

(O-2007-43) ADOPTED AS ORDINANCE O-19554 (New Series)

Authorizing the Mayor to execute a 25-year Joint Use Agreement with Del Mar Union School District for the construction, operation, and maintenance of turfed fields and recreational facilities at the Carmel Valley Community Park South;

Declaring that this activity is not a “project” and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

NOTE: 6 votes required.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:04 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. 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-52: Amendments to the Ethics Commission’s Investigative and Enforcement Procedures.

CITY COUNCIL’S RECOMMENDATION:

Adopt the following ordinance which was introduced on 11/13/2006, Item 150. (Council voted 8-0):

(O-2007-39) ADOPTED AS ORDINANCE O-19555 (New Series)

Amending Chapter 2, Article 6, Division 4 of the San Diego Municipal Code by amending Sections 26.0402, 26.0404, 26.0406, 26.0407, 26.0408, 26.0411, 26.0413, 26.0414, 26.0415, 26.0421, 26.0422, 26.0431, 26.0445, and 26.0450, all relating to the establishment of the Ethics Commission and to the Ethics Commission’s Investigation and Enforcement Procedures.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:04 a.m.)

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

ITEM-100: Inviting Bids for the Construction of Rancho Bernardo Reservoir Rehabilitation Project.

(See Executive Summary Sheet dated October 4, 2006. Rancho Bernardo Community Area. District 5.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2007-565) ADOPTED AS RESOLUTON R-302124

Approving the plans and specifications for the construction of Rancho Bernardo Reservoir Rehabilitation (Project), on Work Order No. 185691;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to award the Project contract to the lowest responsible and reliable bidder in an amount not to exceed \$8,355,234, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$5,000,000 from Water Fund 41500, CIP-75-926.0, Water CIP Reserve, and \$768,167.79 from Water Fund 41500, CIP-70-954.0, North City Reclamation System to Water Fund 41500, CIP-73-328.0, Rancho Bernardo Reservoir Rehabilitation;

Authorizing the expenditure of an amount not to exceed \$8,355,234 from Water Fund 41500, CIP-73-328.0, Rancho Bernardo Reservoir Rehabilitation, solely and exclusively, for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishes one or more

certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

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

Declaring this activity is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15302, as the repair and maintenance of existing facilities.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 10/11/2006, NR&C voted 4 to 0 to forward this item to the full City Council without a recommendation; request that the financing recommendations be in place, and allow the Independent Budget Analyst sufficient time to prepare an analysis of those recommendations. (Councilmembers Faulconer, Atkins, Frye, and Hueso voted yea.)

SUPPORTING INFORMATION:

As part of the Water Department Capital Improvement Program, the Rancho Bernardo Reservoir is scheduled for rehabilitation. This upgrade will bring the project up to the latest Building and Seismic Codes and in compliance with the State of California Department of Health Services (DHS) Compliance Order (04-14-96CO-022) items # 12 and 14. Failure to meet the DHS Compliance Order agreement may result in fines levied against the City of San Diego. The reservoir improvements are mainly structural, mechanical, corrosion protection and landscaping improvements. The total project cost for the Rehabilitation of the Reservoir is estimated around \$9 million. Construction is estimated to start in the spring of 2007 and be completed in the spring of 2008.

The funding considerations for this item have changed since this project was heard at the Natural Resources and Culture Committee meeting on October 11, 2006. It has been decided to execute this project in a single phased contract using funding as outlined in the Fiscal Considerations.

FISCAL CONSIDERATIONS:

The total cost for this project is \$8,979,234 of which \$624,000 was previously authorized. The remaining cost of the project is \$8,355,234. Funding sources for this project are \$2,587,066.21 from Water Fund 41500, CIP-73-328.0, Rancho Bernardo Reservoir Rehabilitation, and transfers in the amount of \$5,000,000 from Water Fund 41500, CIP-75-926.0, Water CIP Reserve, and \$768,167.79 from Water Fund 41500, CIP-70-954.0, North City Reclamation System. The Water CIP Reserve will be reimbursed upon receipt of short-term private financing received in

FY 2007. A portion of the North Reclamation System has been deferred resulting in available funds for this project. When this project was presented at NR&C on October 11, 2006, the

project funding was contingent upon private financing. However, given the priority of this project, it was determined that the use of the Water CIP Reserves is appropriate.

The short-term private offering is expected to be implemented in January 2007, upon Council authorization. Approval for the short-term note and the loan documents are expected to be scheduled for a mid January 2007 Council Meeting. The financing team (CFO's Office, City Attorney's Office, Water Department, co-bond counsel- Hawkins Delafield & Wood and Robinson & Pearman, and the City's financial advisor) is currently developing the financing structure and loan documents. The proposed borrowing structure will be a direct purchase private loan transaction with an eligible lender identified through a competitive selection process. The estimated loan size is \$50 million and will be structured on a fixed rate, tax-exempt basis to be repaid through a long term borrowing in FY 2008, the next bond issuance that is planned to occur in order to meet FY 2008-2009 CIP needs. Proceeds from the short-term note will be used to reimburse and/or finance other time sensitive Water Department construction projects during FY 2007. The estimated loan size of \$50 million is limited to the existing water rate capacity.

PREVIOUS COUNCIL COMMITTEE ACTION:

Design Consultant Agreement with Pountney Psomas was presented and approved at the NR&C meeting of November 17, 2004, and approved by the City Council on December 7, 2004. (R-299932).

This item was presented at the Natural Resources & Culture Committee on October 11, 2006. The Committee forwarded the matter to the full Council without recommendation, and requested further discussion of project financing. It should be noted that the proposed funding for the project has been restructured from that presented at the NR&C meeting, and as more fully discussed in the Fiscal Considerations section.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Community meetings have been conducted to inform members of the public, including the Rancho Bernardo Town Council, the Rancho Bernardo Community Planning Board and local residents about the project and construction schedule. A CIP hotline is regularly maintained to answer questions and provide information to the public.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Key stakeholders are Water Customers, Pountney Psomas (Design Consultant), the construction contractor (to be selected), the Rancho Bernardo Community and the California Department of Health Services.

FILE LOCATION: W.O. 185691

COUNCIL ACTION: (Time duration: 11:08 a.m. – 11:26 a.m.)

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

- * ITEM-101: Awarding a Contract to Kemiron Industries, Inc. for Furnishing Ferric Chloride for Wastewater Treatment.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-531) ADOPTED AS RESOLUTION R-302125

Accepting the bid of Kemiron Industries, Inc. to furnish ferric chloride for wastewater treatment (Bid No. 8405-07-T);

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, a contract with Kemiron Industries, Inc. as may be required for a one-year period from date of award, at a cost not to exceed \$4,792,090 with options to renew the contract for four additional one-year periods, with price escalation not to exceed 25% of prices in effect at the end of each prior contract year;

Authorizing the expenditure of an amount not to exceed \$4,792,090 from Fund No. 41508, Dept. 771, solely and exclusively, to provide funds for the first year of the above contract, and future additional expenditures are authorized contingent on the exercise of each option year and acceptance of the potentially escalated prices by the Metropolitan Wastewater Department, and provided the City Auditor and Comptroller furnishes one or more certificates demonstrating that the funds necessary for additional expenditure are, or will be, on deposit with the City Treasurer;

Declaring the above activity is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301(b), as the operation of existing sewer facilities.

STAFF SUPPORTING INFORMATION:

Ferric chloride (FeCl₃) is one of the most important chemicals used daily in the Metropolitan Wastewater System. It is applied at the Point Loma Wastewater Treatment Plant, Pump Station 2 (which pumps wastewater toward Pt. Loma), the North City Water Reclamation Plant and at the Metropolitan Biosolids Center (processing sludge). This chemical is used to increase the coagulation and separation of solids from wastewater; most of these solids then end up as beneficially-used biosolids on land.

Specifically, this contract will furnish the City of San Diego with ferric chloride with a concentration of 32% to 45%, with a specific gravity of 1.3 to 1.5, to be delivered to the above facilities, as ordered by the City, for a total one-year estimated tonnage of 10,850 dry tons, with options to renew for four (4) additional one-year periods of similar tonnage. The delivered product must also meet all purity standards specified in the bid contract. Kemiron Industries was the lowest cost of two responsive and responsible bidders.

FISCAL CONSIDERATIONS:

FY 2007 estimated cost: \$4,792,090, funded by the FY 2007 operating budget in Fund 41508, Department 771 of the Metropolitan Wastewater Department/Operations and Maintenance Division, an enterprise funded by regional sewer ratepayers. There is no direct impact to revenues, although all MWWD operating expenses are paid by system wide customers.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None for this bid. (A September 12, 2006, Council Resolution was for a separate ferrous chloride bid.)

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Bids were solicited to six (6) vendors on May 14, 2006; bids closed on August 30. Letter of intent to award was issued on September 25; no protests were received by Purchasing to date.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Bid awarded to Kemiron Industries, Inc. of Lawrence, KS. Over 2.2 million regional users of wastewater treatment have a stake in the system's safe and efficient treatment of wastewater, and full compliance to regulatory permits which enforce County, State and Federal water and

ground-application quality laws, in part made possible by the correct application of treatment chemicals, including ferric chloride.

Ferrier/Haas

Aud. Cert. 2700341.

Staff: Jesse Pagliaro - (858) 614-5738
Thomas C. Zeleny - Deputy City Attorney

FILE LOCATION: CONT- Kemiron Industries, Inc.

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:04 a.m.)

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

*ITEM-102: Golf Operation Motive Equipment Fund Transfer.

(University Community Area. District 1.)

(Continued from the meeting of November 14, 2006, Item 107, at the request of Councilmember Frye, to provide a list of the equipment to be purchased and the amount to be spent.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-462) ADOPTED AS RESOLUTION R-302126

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$400,000 from Central Garage Equipment Replacement Fund No. 500317, Account No. 95303, to Golf Operations Fund No. 41400, and Account No. 78510;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$400,000 from the Golf Operations Fund No. 41400, for the purpose of acquiring equipment and vehicles not purchased or maintained by the General Services Department for golf course improvements;

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

STAFF SUPPORTING INFORMATION:

The Central Garage Equipment Replacement Fund was established about 36 years ago for both General Fund and Non-General Fund departments to replace non-public safety motive equipment. It is administered by the Equipment Division of the General Services Department in conjunction with the Auditor's Office. The Fund's revenues are generated by Assignment Fees charged to departments for each vehicle on a bi-weekly basis. These charges for replacing motive equipment are within each department's annual budget.

The Golf Operations sub fund of the Replacement Fund has accumulated excess revenue. A recent analysis of the Golf Operations sub-fund over a ten year period commencing in FY 2007 indicates that \$400,000 could be removed without negatively impacting timely motive equipment replacement.

It is requested that \$400,000 of the Assignment Fees be returned to the Golf Operations Enterprise Fund.

In order to meet the US Golf Association requirements for maintenance of Torrey Pines Golf Course prior to the 2008 US Open Golf Championship, Golf Operations plans to use the excess vehicle assignment charges to acquire equipment and vehicles not maintained by the General Services Department. Golf Operations will work with the Purchasing and Contracting Department to acquire specialized golf equipment and vehicles, and will contract for maintenance directly with the vendor.

Regarding excess revenue, the General Services Department has explained that the major contributing factor has been the continuation of Assignment Fees after the vehicle reaches the end of its life cycle. The purpose behind this policy was to ensure that sufficient funds were available when the vehicle was replaced to cover unexpected price increases or needed vehicle modifications, plus replacing vehicles due to accidents. It has become clear that the practice of continuing Assignment Fees beyond vehicle life cycles is not necessary - this practice will end once an efficient mechanism is developed, but no later than the beginning of FY 2008.

Even though the life cycles of motive equipment are in accord with industry standards, there are several reasons why vehicles stay in service after the end of their life cycles. One is that delays

typically occur in many facets of the decision-making process from customer departments' input to vehicle deliveries from vendors. Another reason is a change recommended by the Zero-Based

Management Group that vehicles should not be replaced solely on age, but on other criteria such as mileage and condition. For Fiscal Years 2004-2007, a comprehensive assessment has been implemented to determine whether a vehicle warrants replacement or retention. For vehicles eligible by age for replacement, an average of 60% have been replaced and 40% have been retained for another year. The assessment procedure ensures the achievement of two objectives: that replacements are warranted, and that retentions will not negatively impact costs and availability.

FISCAL CONSIDERATIONS:

This request is for \$400,000, which is available in the Golf Operations sub fund of the Central Garage Equipment Replacement Fund No. 500317.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Not applicable.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The Golf Operations Enterprise Fund will be increased by \$400,000.

Medina/Martinez

Aud. Cert. 2700326.

Staff: Carol Wood - (619) 525-8217
Shannon M. Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:04 a.m.)

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

* ITEM-103: Marketing Partnership Agreement with San Diego Metropolitan Credit Union.

(See Report to the City Council No. 06-177.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-569) ADOPTED AS RESOLUTION R-302127

Authorizing the Mayor to enter into a Marketing Partnership Agreement with San Diego Metropolitan Credit Union;

Authorizing the City Auditor and Comptroller to expend from Fund No. 100, Dept. 601, Org. 3305, Obj. Acct. 4151, payment to The Pathfinder Group in the amount of \$30,000, payable at the rate of \$10,000 per year for the first year of the term of the Marketing Partnership Agreement and the second and third optional years, if exercised.

STAFF SUPPORTING INFORMATION:

The purpose of this Executive Summary is to provide an overview of the requested action and background regarding the Marketing Partnership Agreement (Agreement) which has been negotiated between the City of San Diego (City) and San Diego Metropolitan Credit Union (SDMCU). The Agreement is based upon five one-year terms. Under the Agreement, SDMCU will pay the City a \$100,000 annual marketing rights fee which will total \$500,000 over five years. In exchange, SDMCU will receive marketing rights and benefits which are fully explained in the Report to City Council and in the Marketing Partnership Agreement with SDMCU. The proposed Agreement was developed in accordance with the process outlined in Marketing Partnership Council Policy 000-40 and San Diego Municipal Code Section 22.3037.

FISCAL CONSIDERATIONS:

A \$100,000 annual marketing rights fee to be paid by the San Diego Metropolitan Credit Union to the City for each year of the Agreement. The term of the Marketing Partnership Agreement is five one-year terms.

In the first year of the Agreement, a transaction fee of \$10,000 will be paid to The Pathfinder Group, the City's consultant, as per the Marketing Consultant Agreement. An additional \$10,000 will be paid to The Pathfinder Group in the second year and in the third year if the Marketing

Partnership Agreement is extended. No commission fees apply to the fourth or fifth year of the Marketing Partnership Agreement. (Document No. C-13038)

The overall fiscal impact will range from \$90,000 to \$470,000 depending on the renewal of the Agreement. Funding to be deposited in the General Fund as part of the revenue projection for the Corporate Partnership Program.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The Pathfinder Group, San Diego Metropolitan Credit Union.

Wolff/Goldstone

Staff: Jenny Wolff - (619) 236-7002
William Gersten - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:04 a.m.)

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

* ITEM-104: Third Extension to the Miramar Recycling Center Service Contract/Real Property Lease with Allan Company.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-578) ADOPTED AS RESOLUTION R-302128

Authorizing the Mayor, or his duly authorized representative, to execute, for and on behalf of the City, a Third One-Year Extension to the Agreement with the Allan Company to operate the Miramar Recycling Center, to take effect retroactively from January 1, 2006, including increased payments to the City, under the terms and conditions set forth in the Third Extension to Miramar Recycling Center Service Contract/Real Property Lease;

Authorizing the City Auditor and Comptroller to deposit revenues received under the Third Extension into Fund No. 41210 - Recycling Fund;

Declaring this activity is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines 15301 because it consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of an existing use.

STAFF SUPPORTING INFORMATION:

In 2001, the San Diego City Council authorized the City Manager to execute a new Agreement with Allan Company (Contractor) for the operation of the Miramar Recycling Center (Center), located at the entrance of the City's Miramar Landfill (Resolution RR-295859). The new Agreement provided the City with increased revenue, services, and capital improvements, in exchange for a five-year contract that includes an "evergreen clause" which, beginning at the end of the second contract year, and at the end of each contract year thereafter, allows for a one-year extension of the agreement if mutually agreed upon by the parties and approved by Council. If the City Council does not approve the Third Extension to the Agreement, the contract will terminate in three years.

The Third Extension, to take effect January 1, 2006, also amends the Agreement to increase the monthly rent paid by the Contractor, beginning January 1, 2006 from \$5,450 to \$8,000 per month, thereby increasing the FY 2006 revenue from \$65,400 to \$80,700 and to \$96,000 annually thereafter.

The increase is to be paid retroactive upon adoption of the Third Extension. An independent analysis provided by the Real Estate Assets Department has concluded that, given the restrictions of the property sited on closed landfill and Federal military property, a monthly rent of \$8,000 is a fair value for the property.

FISCAL CONSIDERATIONS:

The present contract calls for rent payments from the Contractor of \$5,450 per month increasing to \$6,450 after July 2007. Based upon the success of the recycling center and the volume of materials being processed there, ESD staff proposed an increase in the monthly rent payments to \$8,000 per month. Annual revenues from the proposed agreement are estimated at \$80,700 for FY 2006 and \$96,000 for FY 2007, and annually thereafter.

PREVIOUS COUNCIL COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Miramar Recycling Center provides a valuable, high-quality service to City residents and businesses by providing a one-stop recycling opportunity. In addition to the paper, cardboard, beverage containers, scrap metal and other recyclable items the Center accepts, it accepts cathode ray tube (CRT) devices such as computer monitors and TVs free of charge, and accepts for a small fee such hard to handle items as appliances and electronics. It also provides free tax paper shredding and recycling during April, cooking oil recycling, and the sale of bagged Miramar Greenery compost and Recycle Or Else items at no additional charge to the City.

Since the original agreement was approved in 2001, the Contractor has spent over \$265,200 on site improvements and marketing. Through print media, television and radio advertising, the Contractor has increased usage 19 percent from FY 2004 to FY 2005, serving over 90,000 customers a year. The Miramar Recycling Center is featured on the ESD web page and promoted in our annually updated City of San Diego Recycling Guide.

KEY STAKEHOLDERS:

In 1999, the City issued a RFB for management of the Miramar Recycling Center. Only two eligible bids were received; one from Allan Company and one from Escondido Recycling. Escondido Recycling subsequently withdrew their bid, leaving only Allan Company as an eligible bidder with a monthly rent proposal of \$301.

Heap/Haas

Staff: Stephen Grealy - (619) 533-1275
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: LEASE – Allan Company

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:04 a.m.)

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

ITEM-105: Route 905 Property Sale to California Department of Transportation.

(Otay Mesa Community Area. District 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-370) ADOPTED AS AMENDED AS RESOLUTION R-302129

Authorizing the Mayor to execute, for and on behalf of the City of San Diego, a grant deed to the California Department of Transportation for conveyance of Caltrans R/W Parcel No. 31355-1&2 in fee title, subject to the United States of America, by and through the Federal Aviation Administration, releasing this parcel from the conditions, reservations and restrictions contained in the original Quitclaim Deed granting said property to the City of San Diego;

Authorizing the Mayor to execute, for and on behalf of the City of San Diego, a grant deed to the California Department of Transportation for conveyance of Caltrans R/W Parcel No. 31354;

Authorizing the Mayor to execute, for and on behalf of the City of San Diego, a temporary easement granting to the California Department of Transportation a temporary 1.01 acre construction easement in favor of the California Department of Transportation with said easement being located within the 18.77 acre parcel associated with Caltrans R/W Parcel No. 31355-1&2;

Authorizing the City Auditor and Comptroller to accept and deposit the \$62,000 for the sale of Caltrans R/W Parcel No. 31355-1&2 into the Airports Enterprise Fund;

Authorizing the City Auditor and Comptroller to accept and deposit the \$170,250 for the sale of Caltrans R/W Parcel No. 31354 into the General Fund;

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

STAFF SUPPORTING INFORMATION:

Staff is seeking council approval for the sale of two portions of City property to the California Department of Transportation (Caltrans) for the construction of State Route 905. Caltrans made an initial offer of \$200,100 for the two parcels - \$47,000 (#31355-1&2) for 1.44 acres plus a 1.01 acre temporary construction easement and \$152,500 (#31354) for an adjacent 4.75 acres site. A review of salient facts by City valuation staff increased the values to \$62,000 for the first parcel and \$170,250 for the second parcel, totaling \$232,250.

Of the two larger City parcels, the first is 18.77 acres which is part of Brown Field Airport and will require FAA approval of the sale following Council approval. The second adjacent parcel is a 17.66 acre open space lot. Both adjacent parcels are located south of Otay Mesa Road and west of Heritage Road. The parcels have limited development potential, and are subject to eminent domain by the state if necessary.

FISCAL CONSIDERATIONS:

The City will receive a total of \$232,250 dollars from Caltrans for the two parcels. The \$62,000 for the airport property will go to the Airports Enterprise Fund and the \$170,250 will go to the Capital Outlay Fund.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Caltrans has been conducting various community meetings over the past several years for the 905 project.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The Route 905 Project will have regional impacts for the County and the South Bay community when completed.

Barwick/Waring

Staff: Boyle - (619) 236-5548
Walter C. Chung - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:28 a.m. – 11:32 a.m.)

MOTION BY HUESO TO ADOPT THE RESOLUTION AS AMENDED TO REFLECT THE AMOUNT THAT COUNCIL ACCEPTS FROM THE CAPITAL OUTLAY FUND DEDICATED TO FREEWAY 905 CONSTRUCTION. 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-106: Limiting Permits for Single Vehicle Taxicab Operators.

(See Reports to the City Council Nos. 06-185 and 06-053. Citywide.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2007-90 Cor. Copy) ADOPTED AS RESOLUTION R-302130

Amending Council Policy No. 500-02 titled "Taxicab Permits" as set forth in the Council Policy;

Instructing the City Clerk to add the aforesaid to the Council Policy Manual;

Declaring this activity is exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

**PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE'S
RECOMMENDATION:**

On 5/10/2006, PS&NS voted 4 to 0 to approve Staff's recommendation.
(Councilmembers Faulconer, Young, Maienschein, and Hueso voted yea.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:04 a.m.)

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

* ITEM-107: Grant Funding for San Diego Fire-Rescue Department's Air Operations Division.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-545) ADOPTED AS RESOLUTION R-302131

Authorizing the Mayor to execute a Grant Agreement, and pursuant thereto accept, on behalf of the City of San Diego, grant funding in the amount of

\$170,000 from Indian Gaming Local Community Benefit Committee (IGLCBC) for procurement of digital microwave downlink equipment for the Fire-Rescue Department's Air Operations Division;

Authorizing the City Auditor and Comptroller to appropriate and expend the grant funds for the procurement of digital microwave downlink equipment for the Fire-Rescue Department's Air Operations Division.

STAFF SUPPORTING INFORMATION:

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 2004, the City, through the work of the San Diego Fire-Rescue Department and the Corporate Partnership Program, submitted a grant proposal to IGLCBC to request funding for the Regional Fire and Rescue Helicopter Program. The City was granted \$320,417 to be used to help fund the operations of the Regional Fire and Rescue Helicopter Program (\$170,417) and staffing costs for the Sycuan Golden Eagle Flycrew (\$150,000).

In 2005, the City, through the work of the San Diego Fire-Rescue Department and the Corporate Partnership Program, submitted a grant proposal to IGLCBC. The City was granted \$250,000 for the purchase of a fuel service vehicle, including fuel, for the Regional Fire and Rescue Helicopter Program.

In 2006, the City, through the work of the San Diego Fire-Rescue Department and the Corporate Partnership Program, 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.

In 2006, the City, through the work of the San Diego Fire-Rescue Department and CPP, submitted a grant proposal to IGLCBC. The City was granted \$170,000 for the procurement of digital microwave downlink equipment (five mountain top microwave receivers and support

equipment) for the Air Operations Division. It is recommended that the IGLCBC funds be accepted and expended for the procurement of digital microwave downlink equipment (five mountain top microwave receivers and support equipment) for the Air Operations Division.

FISCAL CONSIDERATIONS:

Grant funding from IGLCBC will save the City \$170,000. The grant funding must be used for the purchase of digital microwave downlink equipment (five mountain top microwave receivers and support equipment) for the San Diego Fire-Rescue Department's Air Operations Division.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: All.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Indian Gaming Local Community Benefit Committee

Jarman/Olen

Staff: Brian Fennessy - (619) 533-4353
William Gersten - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:04 a.m.)

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

* ITEM-108: Two actions related to Appointment of Council President Pro Tem and City Council Committee Assignments for Calendar Year 2007.

(See memorandum from Council President Peters dated 11/14/2006.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2007-579) ADOPTED AS RESOLUTION R-302133

Council confirmation of the selection by the Council President-elect of Councilmember Tony Young to serve a second term as Council President Pro Tem for the period commencing January 1, 2007, and lasting for a term of one year and until a successor is selected and qualified, pursuant to Section 22.0101.5 of the San Diego Municipal Code.

Subitem-B: (R-2007-580) ADOPTED AS RESOLUTION R-302134

Council confirmation of the following appointments by the Council President-elect to serve as Chairs, vice-chairs, and committee members of the five standing Council committees for terms commencing January 1, 2007, and lasting for one year and until a successor is duly appointed and confirmed, pursuant to Section 22.0101.5 of the Municipal Code of the City of San Diego:

**Committee on Rules, Open Government,
and Intergovernmental Relations**

CHAIR: Council President Scott Peters
VICE CHAIR: Council President Pro Tem Tony Young
MEMBERS: Councilmember Brian Maienschein
Councilmember Donna Frye
Councilmember Jim Madaffer

Committee on Land Use and Housing

CHAIR: Councilmember Jim Madaffer
VICE CHAIR: Councilmember Ben Hueso
MEMBERS: Council President Pro Tem Tony Young
Councilmember Toni Atkins

**Committee on Natural Resources and
Culture**

CHAIR: Councilmember Donna Frye
VICE CHAIR: Councilmember Ben Hueso
MEMBERS: Councilmember Brian Maienschein
Councilmember Kevin Faulconer

Committee on Public Safety and

Neighborhood Services

CHAIR: Councilmember Brian Maienschein
VICE CHAIR: Council President Pro Tem Tony Young
MEMBERS: Councilmember Kevin Faulconer
Councilmember Ben Hueso

Committee on Budget and Finance

CHAIR: Councilmember Toni Atkins
VICE CHAIR: Councilmember Kevin Faulconer
MEMBERS: Council President Scott Peters
Councilmember Donna Frye
Councilmember Jim Madaffer

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:04 a.m.)

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

* ITEM-109: Approval of the 2007 Legislative and Budget Calendars.

(See memorandum from Council President Peters dated 11/14/2006 and Independent Budget Analyst Report No. 06-55.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-572) ADOPTED AS RESOLUTION R-302134

Adopting the schedule of meetings for the City Council, Standing Committees, and Council Budget Hearings of the City Council for the period of January 1, 2007, through December 31, 2007;

Declaring the first Council Budget Hearing on January 17, 2007, will be chaired by the Budget and Finance Committee chair.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:04 a.m.)

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

* ITEM-110: Gene Trepte Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-562) ADOPTED AS RESOLUTION R-302135

Commending Gene Trepte for his longstanding commitment to and support of Balboa Park and of civic and charitable organizations in the City of San Diego, and congratulating him on his receipt of the Friends of Balboa Park's sixth annual Millennium Award;

Proclaiming November 14, 2006, to be "Gene Trepte Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:04 a.m.)

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

* ITEM-111: Darlene Davies Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-561) ADOPTED AS RESOLUTION R-302136

Commending Darlene Davies for her longstanding commitment to and support of Balboa Park and of civic and charitable organizations in the City of San Diego, and congratulating her on her receipt of the Friends of Balboa Park's sixth annual Millennium Award;

Proclaiming November 14, 2006, to be "Darlene Davies Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:04 a.m.)

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

* ITEM-112: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District 8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2007-47) ADOPTED AS RESOLUTON R-302137

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L-State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:04 a.m.)

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

* ITEM-113: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2007-76) ADOPTED AS RESOLUTION R-302138

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L-State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:04 a.m.)

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

NOTE: This item may be heard in the morning session if time permits.

ITEM-330: Reconsideration of City Council Resolution Reinstating the City of San Diego Swim Team for the Duration of Fiscal Year 2007, Vetoed by the Mayor on November 2, 2006.

(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; Mayor's veto dated 11/02/06; City Attorney's memo dated 10/31/06; and Council President Peters and Councilmember Hueso's memo date 11/08/06. Citywide.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-440) RESONSIDERED/OVERRIDE THE MAYOR'S VETO

Reinstating the City of San Diego Swim Team (the City's Blue Level Competitive Swim Club) for the remainder of Fiscal Year 2007;

Recommending the creation of a task force of stakeholders to "reengineer" the City of San Diego Swim Team program;

Recommending that the Mayor and the Park and Recreation Department return to the City Council during the course of the budgetary review process with proposals to eliminate the deficit within the City's aquatics budget while retaining the City of San Diego Swim Team program in FY 2007 and for future years.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:32 a.m. – 11:45 a.m.)

MOTION BY HUESO TO RECONSIDER RESOLUTION R-302001, TO OVERRIDE THE MAYOR'S VETO OF NOVEMBER 2, 2006, TO REINSTATE THE BLUE LEVEL SWIM PROGRAM; CREATE A TASK FORCE OF STAKEHOLDERS TO RE-ENGINEER THE BLUE LEVEL SWIM PROGRAM, AND TO DIRECT THE MAYOR AND THE PARK AND RECREATION DEPARTMENT TO RETURN TO THE CITY COUNCIL IN MID JANUARY WITH A PROPOSAL TO ELIMINATE THE BUDGET DEFICIT WITHIN THE CITY'S AQUATIC BUDGET WHILE RETAINING THE BLUE LEVEL SWIM PROGRAM IN FY2007 AND IN FUTURE

YEARS. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-nay, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-331: Children's Museum Park – Request to Advertise, Bid, and Make Findings.

(See Centre City Development Corporation Report No. CCDC-06-39/
CCDC-06-18. Marina Sub Area of the Centre City Redevelopment Project.
District 2.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-555) ADOPTED AS RESOLUTION R-302140

Finding and determining that the construction of a park in the Marina District for which the Agency proposes to pay are of benefit to the Centre City Redevelopment Project Area; that the Agency finds and determines that no other reasonable means for financing the proposed improvements are available to the community; that the proposed improvements will assist in eliminating one or more blighting conditions inside the Project area; and that the construction of a park is consistent with the Centre City and Horton Plaza Implementation Plans for July 2004-June 2009, on file in the Office of the Secretary to the Agency pursuant to California Health and Safety Code Section 33490, all as described in Attachment No. 1;

Certifying that the Agency had reviewed and considered information in the Master Environmental Impact Report (EIR) for the Centre City Redevelopment Project and Environmental Secondary Study for the Children's Museum Park on November 26, 2002 by R-No. 03559. The Agency found the development to be consistent with governing land use plans and regulations, and therefore would not have any significant environmental effects not previously discussed in the Master EIR previously certified by the Agency.

SUPPORTING INFORMATION:

On April 14, 1994, the Agency and Children's Museum ("Museum") entered into a Disposition Agreement that included the requirement that the Museum design the King Promenade improvements for the Park area immediately south of the Museum block. The Agreement also required the Agency to pay for the installation of the Park and for the Museum to design and maintain the Park. The Park will be a public park owned by the City of San Diego.

The Agency approved the Basic Concepts/Schematic Drawings for the Park on November 26, 2002. However, the project was unable to move forward until earlier this year when the Children's Museum raised enough funds to finance the construction of the Museum.

The Park will implement a specific goal and objective of a Five Year Work Program adopted by the Agency for project areas on June 15, 2004. The Park also implements a number of the goals of the Downtown Community Plan and will result in additional open space for downtown residents and visitors. The action requested of the Corporation will advance the Park implementation and fulfill an Agency obligation under the Disposition Agreement with the Museum.

FISCAL CONSIDERATIONS:

On July 17, 2002, the Budget/Finance and Projects Committees voted to support an increase of \$273,000 in the Park budget to \$1.5 million for additional work needed along Union Street and the City Front Terrace area, and directed the Museum to prepare Basic Concept/Schematic Drawings. The Basic Concept/Schematic Drawings and the \$1.5 million construction budget received the Corporation's approval on October 16, 2002, and then the Agency's approval on November 26, 2002.

The FY 2006-2007 Budget for the Children's Museum line item is \$2,315,000 in the King Promenade Budget. The cost estimate of \$2,561,675 was based on estimated construction cost increases including soil remediation and inflation costs during the approximate two years the project was unable to move forward until the Children's Museum raised funds to finance the construction of the new Museum. A 15% contingency is included in the total cost estimate. Earlier this year the Museum received financing and is now under construction. The goal of the Park schedule is to be coordinated as closely as possible with the opening of the new Museum in November of 2007. To accommodate the increased authorization, a Budget amendment will most likely be necessary to increase the King Promenade Budget and decrease the East Village Budget line item for off sites for private development (currently unallocated). The Budget amendment will be recommended after the Corporation opens the bids for the park construction.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:

On October 25, 2006, the Corporation Board of Directors voted unanimously to approve the staff recommendation.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

As a means of facilitating the Agency's approval of the Park plans, a committee (the "Children's Museum Park Committee") was assembled in 2001 of CCDC King Promenade and Arts

Advisory members and included the following participants: CCDC Board members Gil Johnson and Hal Sadler; community members Isabelle Wasserman, Margaret Porter Troupe, Danah

Fayman, Dr. Dorothy Smith, Bennett Peji, Manuel Oncina, Reggie Lewis; Children's Museum representatives Kay Wagner, Marc Harris; CCDC staff members Pam Hamilton, Walter Rask, and Beverly Schroeder.

The Children's Museum Park Committee met with the Park designers to provide input on the proposed designs. Community meetings were also held to encourage the input and participation by the community in the design process for the Park.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders for the project are the Children's Museum, existing and future residents and visitors. The projected impact of the action is the additional valuable open space that will be created. The new Park will be maintained by the Children's Museum.

Schroeder/Graham/Anderson

NOTE: See the Redevelopment Agency Agenda of November 28, 2006, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:12 p.m. – 2:15 p.m.
2:57 p.m. – 3:03 p.m.)

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

ITEM-332: Fourth Amendment to Consultant Agreement for the North Chollas Community Park Phase IC.

(Mid City – Eastern Area Community Area. District 4.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2007-35) INTRODUCED TO BE ADOPTED ON
TUESDAY, JANUARY 9, 2006

Introduction of an Ordinance authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, a Fourth Amendment with Estrada Land Planning, Inc. for professional services under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$100,000 from CIP-29-667.0, for the purpose of providing funds for the above referenced Project;

Declaring this activity is covered under the North Chollas Community Park Mitigated Negative Declaration, LDR No. 98-0150. This activity is adequately addressed in the environmental review, and there is no change in the circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental documents adequately cover this activity as part of the previously approved project, the activity is not a separate project for the purposes of CEQA review per CEQA Guidelines Sections 15060(c)(3) and 15738(c).

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

STAFF SUPPORTING INFORMATION:

The City and Estrada Land Planning have maintained a consultant contract since 1998 for the purposes of producing General Development Plan (GDP) of the North Chollas Community Park site, preparing construction documents for the improvements of Phase IA and IB, and monitoring the environmental mitigations of Phase IB.

The GDPs were completed by the Consultant and approved by the City's Park & Recreation Board, and projects are being implemented in phases as funds become available. The North Chollas Community Park site, when complete, will cost between \$19 million to \$25 million.

Currently, the Community Park has the following amenities in place: a turf field, baseball/multipurpose field, spectator plaza, 110 space parking lot, entry road, park identification, signage and landscaping as Phases IA and IB. This proposed project in this phase (Phase IC) will provide for a new comfort station with concession stand and installation of utility services to the building, including an on-site pump station, water service, and cable, telephone, electrical cables.

The City and the Consultant mutually desire to enter into a fourth amendment to the agreement to provide additional professional services of the North Chollas Community Park Phase IC in an

amount not to exceed \$100,000. This fourth amendment will allow Estrada Land Planning and their sub consultants to prepare construction documents, cost estimate, and additional construction services.

Estrada Land Planning will retain sub-consultants to provide a complete design of the proposed utilities, sewer pump station, site preparation for the comfort station, excluding architectural design of the comfort station building which will be provided by others.

FISCAL CONSIDERATIONS:

The consultant's fee for the original Agreement was \$80,000 for Phase IA and Phase IB construction documents. The fee for the First Amendment to Agreement was \$138,860 for additional services to Phase IA and IB. The fee for the Second Amendment to Agreement was \$50,000 for studies and reports for Phase IB. The fee for the Third Amendment to Agreement was \$22,990 for environmental mitigation monitoring of Phase IB. An additional \$100,000 is necessary to provide for profession services requested by the City for Phase IC. The total contract amount, including this requested fourth amendment, will increase to \$391,850. Funds for this purpose, \$100,000, are available in CIP-29-667.0, North Chollas Community Park improvements, Community Block Funds, Fund Nos. 18535 and 18536. This request of \$100,000 expenditure is part of the anticipated scope of work of Phase IC preparing the construction documents for the proposed improvements.

The total Phase IC project cost is \$2.38 million, and project has \$380,000 funded by the Community Block Development Grant, Fund Nos. 18534 to 18537, 18539, and Park and Recreation Grant Match, Fund No. 630221. Funding for the Phase IC construction is not available at this time.

Funding for maintenance of this new facility will be required upon the completion of construction.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

- Council Action authorizing the City Manager to execute the third amendment to the agreement with Estrada + Edaw Partnership, pertaining to North Chollas Community Park Phase I, Resolution R-300055, adopted January 24, 2005.
- Council Action stating for the record that Mitigated Negative Declaration, LDR No. 98-0150 has been reviewed and considered in connection with the approval of North Chollas Community Park Phase IB Improvements, Resolution R-2966590, adopted June 4, 2002.

- Council Action authorizing the City Manager to call for bids and award contract for the North Chollas Community Park Phase IB Improvements, Resolution R-296589, adopted June 4, 2002.
- Council Action authorizing the City Manager to call for bids and award contract for the North Chollas Community Park Phase I Improvements, Resolution R-294296, adopted November 27, 2000.
- Council Action certifying Mitigated Negative Declaration No. 98-0150 in connection with the approval of North Chollas Community Park Phase I Improvements, Resolution R-2966590, adopted November 27, 2000.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

As a part of the Park & Recreation Department review process, the North Chollas Community Park was reviewed and approved by:

- Chollas Lake Park Recreation Council - September 23, 1997;
- Central Area Committee - October 6, 1998;
- Design Review Committee - October 14, 1998;
- Park & Recreation Board - October 15, 1998.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include the Chollas Lake Park Recreation Council and community members in the Mid City - Eastern. Additional stakeholders include Estrada Land Planning, prime consultant, and their sub consultants: Nasland Engineering; Geocon, Inc.; Shadpuor Consulting Engineers, Inc.; MEI, electrical Engineering.

Penera/Martinez

Aud. Cert. 2700230.

Staff: April Penera - (619) 525-8223
Peter A. Mesich - Deputy City Attorney

FILE LOCATION: NONE

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

MOTION BY YOUNG TO INTRODUCE. 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-333: Grant Hill Residences.

Matter of approving, conditionally approving, modifying or denying an application for a General Plan and Community Plan Land Use Amendment, Rezone, Public-Right-of-Way Vacation (to vacate a portion of Island Avenue), Tentative Map (including a request to waive the requirement to underground existing overhead utilities), Planned Development Permit and Site Development Permit. The project proposes to create six lots for the construction of six, single-family dwellings on individual lots with the following deviations: lot standards; encroachments into the front and street side yard setbacks along Island Avenue and 30th Street; and, to allow three-story structures where two stories is the maximum allowed. The 0.48-acre site is located within the 500 block of 30th Street at the northwest intersection of Island Avenue and 30th Street. (General Plan and Community Plan Amendment No. 355450/Rezone No. 355454/Planned Development Permit No. 355451/Site Development Permit No. 355452/Tentative Map No. 355453/Project No. 3887. Southeastern San Diego Community Area. District 8.)

STAFF'S RECOMMENDATION:

Introduce the ordinance in Subitem A; and adopt the resolutions in Subitems B, C, D, and E:

Subitem-A: (O-2007-47) INTRODUCED TO BE ADOPTED ON
TUESDAY, JANUARY 9, 2007

Introduction of an Ordinance changing 5,000 square feet located at the North West intersection of 30th Street and Island Avenue, one block south of Market Street, within the Southeastern San Diego Community Plan Area, in the City of San Diego, California, from the CSF-2 Zone of the Southeastern San Diego Planned District into the MF-3000 Zone of the Southeastern San Diego Planned District as defined by San Diego Municipal Code Section 103.1706 and repealing Ordinance No. O-16922 (New Series), adopted August 3, 1987, of the Ordinances of the City of San Diego insofar as the same conflict herewith.

Subitem-B: (R-2007-532) ADOPTED AS RESOLUTION R-302141

Adoption of a Resolution certifying that Mitigated Negative Declaration No. 3887, on file in the Office of the City Clerk, has been completed in compliance

with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a rezone, community plan amendment, right-of-way, and site development permit for Grant Hill Residences project;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that Mitigated Negative Declaration, a copy of which is on file in the Office of the City Clerk and incorporated by reference, is approved;

That pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-C: (R-2007-533) ADOPTED AS RESOLUTION R-302142

Adoption of a Resolution amending the Southeastern San Diego Community Plan, a copy of which is on file in the Office of the City Clerk;

That the Council adopts an amendment to the Progress Guide and General Plan for the City of San Diego to incorporate the above amended plan.

Subitem-D: (R-2007-534) ADOPTED AS RESOLUTION R-302143

Adoption of a Resolution certifying findings supported by the minutes, maps, and exhibits, with respect to Tentative Map No. 355453;

That Tentative Map No. 355453, Public Right-of-Way Vacation No. 355453, and the request to waive the requirement to underground existing overhead utilities are granted to Grant Hill Partners, LLC, Applicant/Subdivider, and Algert

Engineering Inc., Engineer, subject to conditions which are made a part of this resolution by this reference.

Subitem-E: (R-2007-535) GRANTED PERMIT, ADOPTED AS RESOLUTION
R-302144

Adoption of a Resolution adopting findings with respect to Planned Development Permit No. 355451/Site Development Permit No. 355452;

That Planned Development Permit No. 355451/Site Development Permit No. 355452 is granted to Grant Hill Partners, LLC Owner/Permittee, under the terms and conditions as set forth in permit made a part of this resolution.

OTHER RECOMMENDATIONS:

Planning Commission on September 7, 2006, voted 6-0-0 to approve; no opposition.

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

Not present: Griswold

The Southeastern San Diego Planning Committee has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

The Grant Hill Residences project proposes to subdivide a vacant, 0.48-acre site into six lots for the proposed construction of six detached, single-family homes. The proposed structures would be three stories in height, including a first floor garage, with extensive open space areas for each lot.

The project requires a General Plan and Southeastern San Diego Community Plan Amendment, Rezone, Tentative Map/Public-Right-Of-Way Vacation/Underground Utility Waiver Request, Planned Development Permit and a Site Development Permit.

The project includes a street vacation of a portion of Island Avenue which has a width that exceeds current standards. The rezone and the plan amendments would result in a rezone and a change in land use designation for one lot, Lot 10 from commercial to residential. The remainder of the site is currently zoned and designated for residential development. The Planned Development Permit is required for deviations to the lot standards, setbacks and a two-story height limit. The Site Development Permit is required as the property is within a Planned District. (Discretionary projects within a planned district require the processing of a Site Development Permit).

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are paid by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On September 7, 2006, the Planning Commission voted 6:0:0 to recommend to the City Council approval of the project without any changes.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Southeastern San Diego Planning Committee recommended approval of the project by a vote of 12-0-0 with no conditions.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Grant Hill Partners, LLC

Waring/Escobar-Eck/ST

LEGAL DESCRIPTION:

The project site located at 30th Street, north of Island Avenue and south of Market Street in the Grant Hill Community of the Southeastern San Diego Planning Area.

Staff: Sandra Teasley – (619) 446-5271
Shannon M. Thomas – Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:05 p.m. – 2:06 p.m.)

MOTION BY YOUNG TO INTRODUCE THE ORDINANCE IN SUBITEM A, ADOPT THE RESOLUTION IN SUBITEMS B, C & D AND TO GRANT THE PERMIT IN SUBITEM E.. 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-334: University Community Plan Amendment for Public Safety Services.

Matter of approving, conditionally approving, modifying or denying a Community Plan Amendment to the University Community Plan. The amendment would revise language in the Public Facilities Element of the University community plan to allow additional public safety related facilities (e.g. police, fire, and emergency medical response) within the community. Currently, the University community is served by a fire station located on Eastgate Mall between Regents Road and Genesee Avenue. The Fire Department is concerned about poor response times in University community and its adequacy to meet the needs of the community at this time. The plan amendment would add language identifying the need for additional public safety related facilities to adequately serve existing and future development.

(See Report to the City Council No. 06-175. University Community Plan Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-435) ADOPTED AS RESOLUTION R- 302145

Adoption of a Resolution adopting a Community Plan Amendment which adds language identifying the need to provide additional public safety related facilities to adequately serve existing and future development in the University Community Plan Area.

STAFF SUPPORTING INFORMATION:

The University Community is currently served by one fire station (Fire Station 35) located on Eastgate Mall between Genesee Avenue and Regents Road. The national standard for coverage within a station's district is a maximum of nine square miles and four square miles for densely populated areas. Station 35 currently covers from fourteen square miles. The national standard for emergency response is to have a first responder on scene within five minutes, ninety percent of the time. Station 35 currently meets this goal only thirty four percent of the time. In order to meet the national standard for coverage and response in the University Community, the Fire-Rescue department is recommending a minimum of two additional stations for the community.

Generally, funding for new fire stations may come from several sources. However, in order to provide funding for two new stations in the community through the North University City Public Facilities Financing Plan and Facilities Benefit Assessment and/or the South University City Public Facilities Summary, the need for those facilities is required to be identified in the community plan. Therefore, the proposed plan amendment would revise language in the Public Facilities Element of the community plan to state that public safety related facilities (e.g. police, fire, and emergency medical response) should be provided to assure levels of service standards are attained for existing development and as development occurs. Although the Fire-Rescue Department currently recommends at least two additional fire stations for the community, the proposed amendment would allow for more if necessary and any needed police and/or emergency medical response facilities. Specific locations for new stations are not known at this time; however, siting of new facilities would include community input and be carefully reviewed for environmental, land use and aesthetic impacts.

Approval of the community plan amendment would complete the first step in the process to locate two additional fire stations in the University Community as recommended by the Fire-Rescue Department to assure levels of service standards are attained for existing development and as development occurs.

FISCAL CONSIDERATION:

All costs associated with the processing of this plan amendment are paid through General Fund monies budgeted for the City Planning and Community Investment Department as directed by City Council Resolution No. R-301307.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This community plan amendment was initiated by City Council on March 21, 2006, by Resolution No. R-301307.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

At the November 8, 2005, meeting of the University Community Planning Group (UCPG), a subcommittee was established to work with the community, the fire department and city staff to discuss fire protection issues such as potential station locations, response times and capacity. On December 13, 2005, the UCPG voted to recommend initiation of a community plan amendment by a vote of 14-0-0 to allow additional fire stations in the community. City Planning & Community Investment Department staff presented draft language for the proposed amendment at the UCPG meetings on May 16, 2006 and June 13, 2006.

At their June meeting, the UCPG voted 11-0-0 to recommend approval of the proposed amendment to the University Community Plan. The Fire Protection subcommittee of UCPG will continue to work with all parties involved to see that the needs of the community are met.

KEY STAKEHOLDERS:

No property owners, business owners or developers have a direct financial interest. However, approval of the proposed plan amendment would benefit property and business owners, developers as well as residents in the University Community by completing the first step to locate additional fire stations in the community. Once locations and funding have been identified new stations can be constructed, which would in turn provide better coverage for the community and lower emergency response times.

Waring/Anderson/DM

NOTE: This activity is not a “project” and is therefore exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3). This determination is predicated on Section 15004 of the Guidelines, which provides direction to lead agencies on the appropriate timing for environmental review. Construction activities related to the provision of public safety facilities will require review under the provisions of CEQA.

Staff: Dan Monroe – (619) 236-5529
David E. Miller – Deputy City Attorney

Testimony in favor by Patricia Wilson.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:06 p.m. – 2:08 p.m.)

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

ITEM-335: Regulation of Large Retail Establishments and Prohibition of Superstores.

Matter of approving, conditionally approving, modifying or denying proposed ordinances amending the San Diego Municipal Code (Code), including Land Development Code (LDC) and Local Coastal Program (LCP). The proposed Large Retail Ordinance (offered in Versions A & B) would amend the following Code provisions: CHAPTER 11, ARTICLE 3, DIVISION 1; CHAPTER 12, ARTICLE 6, DIVISION 4; CHAPTER 12, ARTICLE 6, DIVISION 5;

CHAPTER 12, ARTICLE 7, DIVISION 1; CHAPTER 12, ARTICLE 7,
DIVISION 1; CHAPTER 13, ARTICLE 1, DIVISION 5; CHAPTER 13,

ARTICLE 1, DIVISION 6; CHAPTER 14, ARTICLE 2, DIVISION 4; CHAPTER 14, ARTICLE 2, DIVISION 4; CHAPTER 14, ARTICLE 2, DIVISION 4; CHAPTER 14, ARTICLE 2, DIVISION 4; CHAPTER 14, ARTICLE 2, DIVISION 4; CHAPTER 14, ARTICLE 3, DIVISION 3; CHAPTER 14, ARTICLE 3, DIVISION 4; and/or CHAPTER 15, ARTICLE 1, DIVISION 2 to require that: (1) the development of large retail establishments (retail establishments 50,000 or greater gross floor area) be approved through either a Process 2 Neighborhood Development Permit (NDP) for stores of 50,000 or more square feet of gross floor area, or through a Process 4 Site Development Permit (SDP) for stores of 100,000 or more square feet of gross floor area; (2) the development of large retail establishments over 50,000 square feet will be subject to the imposition of new development regulations relating to design and landscaping; and in Version A only (3) retail stores be capped at 49,999 square feet of gross floor area in the CN, CO, CV, IP, IH, IS and IL-1 zones.

The separately proposed Ordinance Prohibiting Superstores (formerly “SKU Ordinance”) would amend the following Code provisions: CHAPTER 11, ARTICLE 3, DIVISION 1; CHAPTER 12, ARTICLE 7, DIVISION 1; CHAPTER 13, ARTICLE 1, DIVISIONS 5 AND 6; CHAPTER 14, ARTICLE 1, DIVISIONS 1 AND 5; CHAPTER 14, ARTICLE 3, DIVISION 3; and CHAPTER 15, ARTICLE 1, DIVISION 2, thereby prohibiting the establishment of “Superstores” citywide. “Superstores” are defined as retail establishments that exceed 90,000 square feet gross floor area, sell a wide range of consumer goods, and sell items not subject to California sales tax from more than 10% of the sales floor area. This definition excludes discount warehouse stores and discount retail stores that sell more than half of their items in large quantities or in bulk, and charge a membership fee.

The proposed amendments to the Land Development Code constitute an amendment to City of San Diego’s Local Coastal Program (LCP) and must be certified by the Coastal Commission to be effective in the Coastal Overlay Zone. If the City Council approves the proposed amendments to the Land Development Code, some of the regulations will be effective outside the Coastal Overlay Zone, and the associated LCP amendment will be submitted to the California Coastal Commission for review and adoption of all remaining provisions. The LCP amendment will not become effective within the Coastal Overlay Zone until after adoption by the California Coastal Commission. If you wish to be noticed of the Coastal Commission hearing on this issue, prior to the close of the City Council public hearing, you must submit a request in writing to City of San Diego, Economic Development

Division, 600 B Street, MS-904, San Diego, CA 92101, Attention: Russ Gibbon.

In accordance with the California Coastal Act and Guidelines, the proposed ordinances shall be made available at no cost to relevant state agencies and other interested persons and agencies upon request. These documents are also available for public review at: (1) City Administration Building, Office of the Clerk, 202 C St., San Diego, CA 92101; (2) San Diego Central Library,

820 E Street, San Diego, CA 92101; and (3) California Coastal Commission, San Diego Coast District Office, 7575 Metropolitan Drive Ste 103, San Diego, CA 92108. All comments regarding the proposed LCP amendment should be directed to Russ Gibbon, Project Manager.

(See Report to the City Council No. 06-149. Citywide.)

STAFF'S RECOMMENDATION:

Introduce the ordinance in Subitem B and note and file the ordinances in Subitems A and C:

Subitem-A: (O-2007-29A) VERSION A - NOTED AND FILED

Introduction of an Ordinance of the Council of the City of San Diego amending Chapter 11, Article 3, Division 1 by amending Section 113.0103; Amending Chapter 12, Article 6, Division 4 by adding Section 126.0402(1); Amending Chapter 12, Article 6, Division 5 by adding Section 126.0502(d)(8); Amending Chapter 12, Article 7, Division 1 by amending Section 127.0103(a), Table 127-01A; Amending Chapter 12, Article 7, Division 1 by adding Section 127.0107(e); Amending Chapter 13, Article 1, Division 5, by amending Section 131.0522, Table 131-05-B; Amending Chapter 13, Article 1, Division 6, by amending Section 131.0622, Table 131-06B; Amending Chapter 14, Article 2, Division 4, by amending Section 142.0404, Table 142-04C; Amending Chapter 14, Article 2, Division 4, by adding Section 142.0405(c)(4); Amending Chapter 14, Article 2, Division 4, by amending Section 142.0405(d); Amending Chapter 14, Article 2, Division 4, by amending Section 142.0406(c)(3); Amending Chapter 14, Article 2, Division 4, by amending Section 142.0412; Amending Chapter 14, Article 3, Division 3, by amending Section 143.0302,

Table 143-03A; Amending Chapter 14, Article 3, Division 3, by adding
Section 143.0355; Amending Chapter 14, Article 3, Division 4 by adding

Section 143.0410(a)(3)(H); and Amending Chapter 15, Article 1, Division 2, by amending Section 151.0253, Table 151-02F; all pertaining to regulation of Large Retail Establishments.

Subitem-B: (O-2007-29B) VERSION B INTRODUCED AS AMENDED TO
BE ADOPTED AT A LATER
DETERMINED DATE

Introduction of an Ordinance of the Council of the City of San Diego amending Chapter 11, Article 3, Division 1, by amending Section 113.0103; Amending Chapter 12, Article 6, Division 4 by adding Section 126.0402(1); Amending Chapter 12, Article 6, Division 5 by adding Section 126.0502(d)(8); Amending Chapter 12, Article 7, Division 1 by amending Section 127.0103(a), Table 127-01A; Amending Chapter 12, Article 7, Division 1 by adding Section 127.0106(e); Amending Chapter 13, Article 1, Division 5 by amending Section 131.0522, Table 131-05B; Amending Chapter 13, Article 1, Division 6, by amending Section 131.0622, Table 131-06B; Amending Chapter 14, Article 2, Division 4, by adding Section 142.0405(c)(4); Amending Chapter 14, Article 2, Division 4, by amending Section 142.0405(d); Amending Chapter 14, Article 2, Division 4, by amending Section 142.0412; Amending Chapter 14, Article 3, Division 3, by amending Section 143.0302, Table 143-03A; Amending Chapter 14, Article 3, Division 3, by adding Section 143.0355; and amending Chapter 14, Article 3, Division 4 by adding Section 143.0410(a)(3)(H); all pertaining to Large Retail Establishments.

Subitem-C: (O-2007-41) INTRODUCED TO BE ADOPTED AT A LATER
DETERMINED DATE

Introduction of an Ordinance of the Council of the City of San Diego amending Chapter 11, Article 3, Division 1, by amending Section 113.0103; Amending Chapter 12, Article 7, Division 1 by amending Sections 127.0103(a), Table 127-01A, 127.0103A, 127.0103(c), Table 127.01C, Amending Section 127.0106(e), and adding Sections 127.0106(f) and 127.0109(c); Amending Chapter 13, Article 1, Division 5, by amending Table 131-05B; Amending Chapter 13, Article 1, Division 6, by amending Table 131-06B; Amending Chapter 14, Article 1, Division 1, by amending Sections 141.0101 and 141.0102(a), and adding Section 141.0102(e); Amending Chapter 14, Article 1, Division 5, by adding Section 141.0505; Amending Chapter 14, Article 3, Division 3, by amending Section 143.0302, Table 143-03A; and Amending

Chapter 15, Article 1, Division 2, by amending Table 151-02C; all pertaining to the Prohibition of Superstores.

OTHER RECOMMENDATIONS:

The Planning Commission on December 16, 2004, voted 6-0 to recommend approval of staff's recommendation except for Item 2 (150,000 sq. ft. size cap). The Planning Commission also recommended inclusion of design requirements such as structured parking, eating areas and green building requirements for structures over 150,000 square feet and that the economic impact report not be included in the ordinance; was opposition.

Ayes: Steele, Chase, Lettieri, Garcia, Ontai, Otsuji
Not present: Schultz

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Adopt Large Retail Ordinance Version B (O-2007-29B).

STAFF RECOMMENDATION:

Adopt Large Retail Ordinance (Version B). Do not adopt the Ordinance Prohibiting Superstores (O-2007-41).

EXECUTIVE SUMMARY:

The City Council is being presented with three draft ordinances:

- Large Retail Ordinance (Version A) was drafted pursuant to the City Council's motion on September 18, 2006. The draft ordinance incorporates Items 3, 4 and 6 of the former City Manager's Report (05-136). Version A also contains a modification to the regulations that would apply to previously conforming establishments.
- Large Retail Ordinance (Version B) is the Mayor's recommendation, in consideration of the City Council's motion on September 18, 2006. The draft ordinance incorporates Items 3, 4 and 6 of the former City Manager's Report (05-136) and includes modifications that staff feels better meets the Mayor's and Council's intent.
- Ordinance Prohibiting Superstores drafted pursuant to Council direction.

FISCAL CONSIDERATIONS:

The Large Retail Ordinance would not likely have any fiscal impact (positive or negative) on the City. The fiscal impact of large retail establishments is almost entirely dependent on the location

of these stores. The fiscal impact of one or more Superstores coming into San Diego is uncertain. Positive fiscal impacts (net new revenues) could be realized if the proposed Superstore were to be located in San Diego, close to City limits and away from small locally-owned retailers, which are predominantly congregated in the central part of the City, especially in adopted Redevelopment Areas, Enterprise Zones, and Business Improvement Districts (BIDs). Conversely, Superstores locating just outside the boundaries of the City would result in a negative fiscal impact. A provision to require large retail applicants (for stores larger than 120,000 square feet) to provide a market impact analysis during the discretionary process would provide decision-makers with site-specific fiscal impact information. This requirement is currently proposed for inclusion in the Draft General Plan's Economic Prosperity Element.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On June 29, 2005, LU&H voted to recommend approval of Items 3, 4, and 6 of CMR 05-136 (development permit requirements and design/landscape standards) and to refer the remaining elements of CMR 05-136 (Items 1, 2, and 5 relating to size limitations and incentives) and SKU Ordinance to the Council without recommendation.

Additionally, the Committee referred the SKU Ordinance to the City Attorney and asked for a legal review of that proposed Ordinance to be prepared prior to City Council consideration of this issue. The legality of the SKU Ordinance was thereafter addressed in Closed Session.

On September 18, 2006, the City Council approved two motions. The first motion, approved unanimously, directed the Office of the City Attorney, with the cooperation of the Mayor's staff and the Office of the Independent Budget Analyst to prepare an ordinance regulating large retail establishments in accordance with the Mayor's recommendations in Report to Council No. 06-124. The second motion, passed on a 5-3 vote, similarly directed Office of the City Attorney, with the cooperation of the Mayor's staff and the Office of the Independent Budget Analyst to prepare an ordinance similar to the SKU Ordinance which would preclude the construction of Superstores within the City, except for membership stores which exceed these thresholds but which sell products in bulk quantities.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

During the two-year period from 2003-2005, these issues elicited public testimony from a wide range of interest groups at three Planning Commission workshops, two Planning Commission meetings, two LU&H public hearings, and meetings with CPC, TAC, and CMT.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Small businesses, chain grocery stores, and their trade organizations are in favor of placing restrictions on Superstores, while several large corporate retailers, the San Diego Regional Chamber of Commerce and development organizations have opposed restrictions.

Waring/Escobar-Eck/RG

NOTE: This activity is exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3). This determination is predicated on Section 15004 of the Guidelines which provides direction to Lead Agencies on the appropriate timing for the environmental review. Construction activities related to the proposed regulations will require further review under the provisions of CEQA.

Staff: Russ Gibbon – (619) 533-4273
Jana Garmo – (619) 533-6430, Deputy City Attorney

Testimony in favor by Art Castanares, Diana Spyridonidis, Jay Turner, Bill Collins, Herbert Shore, Gloria Johnson, Richard Kurylo, Stephen Whiturn, George Mitrovich, Jim Schmidt, Michelle Krug, Cory Briggs, Dan Morales, Marcia Patt, Ron Boshun, Auday Arabo, David Treptow, Nick Delorenzo, and Jarvis Ross.

Testimony in opposition to subitems A and C by Kevin McCall, Tom Turner, Louis Wolfsheimer, Herman Collins, John Ziebarth, Scott Molloy, Jerry Levingston, Matt Peterson, Guy Preiss, Dan Wray, Mark Catlin, Scott Maloni, Joseph Abrahamson, John Sablan, John Meyers, Ed Cramer, Loni, Lutar, Joshua Cardenas and Toni Royal.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:11 p.m. – 6:05 p.m.)

MOTION BY MADAFFER TO NOTE AND FILE THE ORDINANCE IN SUBITEM A; INTRODUCE THE ORDINANCE IN SUBITEM B WITH THE AMENDMENTS NOTED IN STAFF'S PRESENTATION. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

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

ITEM-336: Two actions related to the Approval of Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and Pacific Development Partners for the Development of Lots 2-7 in the Valencia Business Park.

(See Southeastern Economic Development Corporation Report No. 06-009.
Southeastern San Diego Community Area. District 4.)

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

Adopt the following resolutions:

Subitem-A: (R-2007-573) ADOPTED AS RESOLUTION R- 302146

Certifying the Secondary Study of the environmental impacts with respect to the Disposition and Development Agreement between the Redevelopment Agency and Pacific Development Partners, LLC; and the proposed sale of real property pursuant thereto.

Subitem-B: (R-2007-574) ADOPTED AS RESOLUTION R-302147

Approving the sale of certain property in the Central Imperial Redevelopment Project Area to Pacific Development Partners, LLC; approving the Disposition and Development Agreement pertaining thereto; and making certain findings with respect to such sale.

NOTE: See the Redevelopment Agency Agenda of November 28, 2006, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:46 p.m.)

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

ITEM-337: Three actions related to Monarch School – Acquisition/Disposition of Property at 808 West Cedar Street for Continued Operation and Future Expansion of Monarch School and Basic Concept/Schematic Drawings and Centre City Coastal Development Permit for Monarch’s Redevelopment of the Site – Little Italy Redevelopment District of the Centre City Redevelopment Project.

(See Centre City Development Corporation Report No. CCDC-06-36/
CCDC-06-16. District 2.)

CENTRE CITY DEVELOPMENT CORPORATION’S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2007-557) ADOPTED AS RESOLUTION R-302148

Certifying that the City Council has reviewed and considered information contained in the Environmental Impact Report for the San Diego Downtown Community Plan, Centre City Planned District Ordinance, and Tenth Amendment to the Redevelopment Plan for the Centre City Redevelopment Project, and the Secondary Study with respect to the acquisition and disposition of property and the potential redevelopment and expansion of Monarch School at 808 West Cedar Street in the Centre City Redevelopment Project; and making certain findings and determinations regarding environmental impacts of the development.

Subitem-B: (R-2007-558) ADOPTED AS RESOLUTION R-302149

Approving the sale of certain property located at 808 West Cedar Street (Assessor’s Parcel Nos. 533-311-07 and 533-311-08) in the Centre City Redevelopment Project Area (the existing location of Monarch School) to Monarch School Project; approving the disposition agreement pertaining thereto; and making certain findings with respect to such sale.

Subitem-C: (R-2007-559) ADOPTED AS RESOLUTION R-302150

Approving Centre City Coastal Development Permit No. 2006-50 for the Monarch School Development Project at 808 West Cedar Street within the Centre City Redevelopment Project Area.

SUPPORTING INFORMATION:

Monarch is a school for homeless and disadvantaged children whose operations are funded by the San Diego County Office of Education ("COE") and by the Monarch School Project, a 501(c)(3) non-profit entity supporting the Monarch School. In the last 5 years Monarch's enrollment has grown from 48 to an average of 100-125 children, challenging the leased facility's capacity. The proposed actions would provide a permanent home for Monarch School with the opportunity for redevelopment of the Site with a new building to serve a student population of 250-300 students. Acquisition of the Site by the Agency would cost an estimated \$4.56 million, \$1.25 million provided by an Advance of Funds by Monarch School and \$3.31 million of Agency funds. The Agency would convey the Site to Monarch for a purchase price evidenced by the \$1.25 million Advance. Redevelopment of the Site would occur when Monarch had raised the estimated \$11 million required to construct the improvements which are the subject of the Basic Concept/Schematic Drawings and Centre City Coastal Development Permit.

FISCAL CONSIDERATIONS:

Funds are available to meet the Agency's obligations with respect to the acquisition and disposition of the Site in the FY 2006/2007 Budget for Areawide Land Acquisition for Educational Facilities.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:

On October 25, 2006, the Corporation Board of Directors voted unanimously to approve the staff recommendation.

Kaiser/Graham/Richter

NOTE: See the Redevelopment Agency Agenda of November 28, 2006, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 2:53 p.m.)

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

ITEM-S500: Multi-Habitat Planning Area Property Acquisition.

(Del Mar Mesa, East Elliot, and Otay Community Areas. Districts 1, 7, and 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-627) ADOPTED AS RESOLUTION R-302151

Accepting the nine (9) properties from the TET Bankruptcy with the endowment fund of \$335,000 for the continual management of these nine (9) properties;
Declaring the City Auditor and Comptroller will establish a separate interest-bearing account for the \$335,000; and
Declaring the City Parks and Recreation Department's Open Space Division manage the approximate \$335,000 endowment fund to administer the 3M's of these nine (9) properties.

STAFF SUPPORTING INFORMATION:

The Environmental Trust, Inc. ("TET"), a California non-profit public benefit corporation was organized in 1990 for the purpose of acquiring, maintaining and monitoring environmentally threatened and sensitive real property and engaging in environmental land mitigation and credit sales. A developer proposing to build upon environmentally sensitive lands and needing to obtain off-setting credits for the adverse consequences associated with the proposed development could obtain those credits through TET.

In exchange for the credits needed to proceed with their developments, developers entered into agreements with TET that required TET to record conservation easements and to deposit 100% of the endowment funds accepted from the developers into permanent endowment accounts for the management, maintenance, and monitoring (the "3M's") of the environmentally sensitive properties in perpetuity. Not only did TET underestimate the amount of endowment funds it would need to perform the 3M's in perpetuity, it did not deposit 100% of the endowment funds it received, and poor investments and a declining securities market caused TET's assets to plunge from \$18.2 million in 1999 to just under \$7.9 in 2003. TET was left with over \$13 million in debt only about \$3.1 million in its endowment account when it went into bankruptcy.

TET Bankruptcy Liquidation

The City's Parks and Recreation Department, the Planning Department, the Real Estate Asset Department, and the City Attorney's Office have been working on this matter for some time. There are 9 properties that have been identified for the City to acquire out of the TET

Bankruptcy. These properties consist of 278.78 acres and all lie within the City's Multi-Habitat Planning Area. Administering the 3M's and managing the endowment funds of over \$335,000 that will be received from the Bankruptcy Court would be the responsibility of the City Parks and Recreation Department's Open Space Division.

Parcels

Del Mar Mesa -	32.5 acres
East Elliot 13 -	13 acres
San Pasqual -	80 acres
Otay 15 -	15 acres
Newport 5 (Otay Mesa) –	5 acres
West Otay Mesa B -	40 acres
West Otay Mesa C -	43.94 acres
Wruck Canyon (Otay Mesa) –	45.34 acres
Spring Canyon (Otay Mesa) -	4 acres
	278.78 acres

FISCAL CONSIDERATIONS:

Receipt of approximately \$335,000 endowment for the nine parcels.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A.

Barwick/Waring

Staff: David Sandoval - (619) 236-5548

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:08 p.m. – 2:12 p.m.)

MOTION BY HUESO 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.

REPORT OUT OF CLOSED SESSION:

To view the list of all available City Council Closed Session Meetings Reports refer to the link below:

<http://www.sandiego.gov/city-clerk/closedsess.shtml>

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 3:11 p.m. – 3:11 p.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 6:19 p.m. in honor of the memory of:

Craig “Corky” Silberman as requested by Council President Peters; and
Alan John Smith as requested by Council Member Frye.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 6:19 p.m. – 6:24 p.m.)