

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, JANUARY 9, 2007
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:05 a.m. Council President Peters recessed the meeting at 11:13 a.m. for the purpose of a break. Council President Peters reconvened the meeting at 11:19 a.m. with all Council Members present. Council President Peters recessed the meeting at 11:20 a.m. to convene the Housing Authority. Council President Peters reconvened the regular meeting at 11:21 a.m. with all Council Member present. The meeting was recessed by Council President Peters at 12:00 p.m. for the noon break.

The meeting was reconvened by Council President Peters at 2:02 p.m. with Council Members Madaffer and Hueso not present. Council President Peters recessed the meeting at 3:54 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:02 p.m. with all Council Members present. Council President Peters recessed the meeting at 6:19 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 6:21 p.m. with Council Member Madaffer not present. Council President Peters recessed the meeting at 7:06 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 7:11 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 7:15 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/gS)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-not 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 alcohol licenses and New Year promises.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-2:

Hud Collins commented on the pension and financial crisis.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:11 a.m. – 10:14 a.m.)

PUBLIC COMMENT-3:

Homer Barrs commented on the first right of refusal.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:15 a.m. – 10:17 a.m.)

PUBLIC COMMENT-4:

Aaron Klein commented on medical use of marijuana and a deceased friend.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:19 a.m.)

PUBLIC COMMENT-5:

Rudy Reyes commented on the use of marijuana for medical purposes.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-6:

Linda Smith commented on her board and care concerns.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-7:

Alexandra Bry commented on Board of Appeals injustices.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:22 a.m. – 10:25 a.m.)

PUBLIC COMMENT-8:

Ron Boshun commented on Council actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:28 a.m.)

PUBLIC COMMENT-9:

Mel Shapiro commented on Council Policies relating to abstention.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:32 a.m.)

PUBLIC COMMENT-10:

Jinna Albright commented on a pay study versus the cost of living in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

PUBLIC COMMENT-11:

Phil Hart commented on those he felt were ethically challenged.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-12:

Jarvis Ross commented on competitive bidding and services.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-13:

Don Stillwell commented on the Joint Powers Authority.

FILE LOCATION: AGENDA

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

COUNCIL COMMENT:

None.

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

* ITEM-50: Fourth Amendment to Consultant Agreement for the North Chollas Community Park Phase IC.

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

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 11/28/2006, Item 332. (Council voted 8-0):

(O-2007-35) ADOPTED AS ORDINANCE O-19560 (New Series)

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.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

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

* ITEM-51: Grant Hill Residences Rezone.

(Southeastern San Diego Community Area. District 4.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 11/28/2006, Item 333, Subitem A. (Council voted 8-0):

(O-2007-47) ADOPTED AS ORDINANCE O-19561 (New Series)

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.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

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



ITEM-52: Status of Underground Conversion Program.

(See Report to the City Council No. 06-179 and City of San Diego Utilities Undergrounding Program Master Plan Fiscal Year 2007 Report.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 11/27/2006, Item 200, Subitem A. (Council voted 8-0):

(O-2007-50) ADOPTED AS ORDINANCE O-19562 (New Series)

Amending Chapter 6, Article 1, Division 5, by amending Section 61.0508, relating to Underground Utility Procedures.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:46 a.m. – 10:46 a.m.)

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



ITEM-53: Ninth Amendment to the Agreement with KPMG, LLP for FY 2003 Comprehensive Annual Financial Report (CAFR) Auditing Services.

(See Report to the City Council No. 06-189 and memorandum from Jay M. Goldstone dated 12/1/2006.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 12/4/2006, Item 200, Subitem A. (Council voted 7-1. Council President Pro Tem Young voted nay.):

(O-2007-60 Cor. Copy 2) ADOPTED AS ORDINANCE O-19563
(New Series)

Amending Ordinance No. O-19522 (New Series) entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 2006-2007 and Appropriating the Necessary Money to Operate the City of San Diego for said Fiscal Year," by authorizing the City Auditor and Comptroller to appropriate and to transfer up to \$1,320,000 from the City's General Fund Unallocated Reserve to the Public Liability Fund, to pay for services rendered by KPMG, LLP in connection with auditing the City's Fiscal Year 2003 Comprehensive Annual Report.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:47 a.m. – 11:05 a.m.)

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



ITEM-54: Agreement and Amendments to Agreement with Macias, Gini & O'Connell, LLP for the FY 2003 - FY 2006 Financial Statements Audits.

(See Report to the City Council No. 06-187.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced as amended on 12/4/2006, Item 201, Subitem A. (Council voted 7-1. Council President Pro Tem Young voted nay):

(O-2007-61 Cor. Copy 3) ADOPTED AS ORDINANCE O-19564
(New Series)

Amending Ordinance No. O-19522 (New Series) entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 2006-2007 and Appropriating the Necessary Money to Operate the City of San Diego for said Fiscal Year," by authorizing the City Auditor and Comptroller to appropriate and to transfer up to \$327,325 from the Unallocated Reserve to the Public Liability Fund, to pay for audit services rendered by Macias, Gini, & O'Connell, LLP in connection with auditing the City's Fiscal Year 2003-2005 Comprehensive Annual Financial Reports, re-auditing the Fiscal Year 2003 Financial Reports of the Redevelopment Agency, re-auditing the City's Fiscal Year 2003 Single Audit and the ongoing fraud investigation in connection of the FY 2003-2005 Financial Statement Audits.

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

FILE LOCATION: MEET

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

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



ITEM-55: Amending the San Diego Municipal Code to Add Policies and Procedures to Implement Use of Managed Competition.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 12/5/2006, Item 331. (Council voted 8-0):

(O-2007-57 Cor. Copy) ADOPTED AS ORDINANCE O-19565
(New Series)

Amending Chapter 2, Article 2, of the San Diego Municipal Code by adding Division 37, titled "Managed Competition," relating to the City's use of a managed competition process to determine the most economic and efficient means of providing City services.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:21 a.m. – 11:24 a.m.)

MOTION BY FAULCONER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. 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-56: Amending the San Diego Municipal Code to Implement Voter Approval of Retirement System Benefit Increases.

(See Independent Budget Analyst Report IBA-06-57.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 12/5/2006, Item 330. (Council voted 8-0):

(O-2007-58) ADOPTED AS ORDINANCE O-19566 (New Series)

Amending Chapter 2, Article 4, of the San Diego Municipal Code by adding Division 19, titled "Voter Approval of Retirement System Benefit Increases" relating to the implementation of Charter Section 143.1.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:21 a.m. – 11:25 a.m.)

MOTION BY FAULCONER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. 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-57: Amendments to San Diego Municipal Code to Implement Benefit Eligibility Changes for Employees Hired and Elected Officials Assuming Office On or After July 1, 2005.

(See Independent Budget Analyst Report No. 06-54 and Report from the City Attorney dated 10/31/2006.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 12/6/2006, Item 604. (Council voted 6-0. Councilmembers Faulconer and Hueso ineligible):

(O-2007-36 Cor. Copy 2) ADOPTED AS ORDINANCE O-19567
(New Series)

Amending Chapter 2, Article 4, Divisions 12, 13, 14, and 15 of the San Diego Municipal Code by adding Sections 24.1201.1, 24.1312.1, 24.1402.1, and 24.1503.1, all relating to the San Diego City Employees' Retirement System and Benefit Eligibility changes for members hired or assuming office on or after July 1, 2005.

FILE LOCATION: MEET

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

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

- * ITEM-58: Amendments to San Diego Municipal Code to Implement Requirements of California's Domestic Partner Rights and Responsibilities Act of 2003.

(See Independent Budget Analyst Report No. 06-54 and Report from the City Attorney dated 10/31/2006.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 12/6/2006, Item 605. (Council voted 8-0):

(O-2007-44 Cor. Copy 2) ADOPTED AS ORDINANCE O-19568
(New Series)

Amending Chapter 2, Article 4 of the San Diego Municipal Code by amending Division 1, by adding Section 24.0103.1, relating to the San Diego City Employees' Retirement System, implementing the requirements of California's Domestic Partner Rights and Responsibilities Act.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

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

- * ITEM-59: First Amendment to the Agreement with Malcolm Pirnie, Inc. for Consultant Services.

(Navajo Community Area. District 7.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 11/21/2006, Item 50. (Council voted 8-0):

(O-2007-42) ADOPTED AS ORDINANCE O-19569 (New Series)

Authorizing the Mayor, or his designee, to execute a First Amendment to Agreement between the City of San Diego and Malcolm Pirnie, Inc. for Consulting Services for the Alvarado Water Treatment Plant Upgrade and Expansion Phase IV Project (First Amendment), together with any reasonably necessary modifications or amendments thereto which do not increase agreement scope or cost and which the Mayor, or duly authorized City representative, shall deem necessary from time to time in order to carry out the purposes and intent of the agreement;

Authorizing the City Auditor and Comptroller to transfer \$700,000 from CIP-73-261.4, Earl Thomas Reservoir, to CIP-73-261.3, Alvarado Water Treatment Plant Upgrade and Expansion Phase II (Phase IV Ozone Improvements);

Authorizing the expenditure of \$99,887 from CIP-73-261.3, Alvarado Water Treatment Plant Upgrade and Expansion Phase II, solely and exclusively for the purposes of funding the First Amendment;

Authorizing the expenditure of \$1,200,113 from CIP-73-261.3, Alvarado Water Treatment Plant Upgrade and Expansion Phase II (Phase IV Ozone Improvements), solely and exclusively, for the purposes of funding the First Amendment;

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

Declaring this activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378(c). This activity is a subsequent discretionary approval covered under LDR-40-0259, Addendum to EIR No. 88-0459, Alvarado Water Filtration Plant Expansion and Rehabilitation. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review pursuant to CEQA Guidelines Section 15162.

NOTE: 6 votes required pursuant to Charter Section 99.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

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

* ITEM-60: Second Amendment to the Agreement with CH2mHill, Inc. for Consultant Services.

(Navajo Community Area. District 7.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 12/5/2006, Item 54. (Council voted 7-0. Councilmember Madaffer not present):

(O-2007-59) ADOPTED AS ORDINANCE O-19570 (New Series)

Authorizing the execution of a Second Amendment to the Consultant Agreement with CH2mHill, Inc. for the Alvarado Water Treatment Plant Expansion (Agreement), together with any reasonably necessary modifications or amendments thereto which do not increase agreement scope or cost and which the Mayor, or duly authorized City representative, shall deem necessary from time to time in order to carry out the purposes and intent of the agreement;

Authorizing the City Auditor and Comptroller to transfer \$467,789.16 in excess budgeted funds from CIP-73-261.4, Earl Thomas Reservoir, to CIP-73-261.3, Alvarado Water Treatment Plant Upgrade and Expansion Phase II;

Authorizing the expenditure of \$467,789.16 from CIP-73-261.3, Alvarado Water Treatment Plant Upgrade and Expansion Phase II, for the purpose of funding the agreement;

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

Declaring that this activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines 15378(c). This activity is a subsequent discretionary approval covered under LDR-40-0259, Addendum to EIR-88-0459, Alvarado Water Filtration Plant Expansion and Rehabilitation. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review pursuant to CEQA Guidelines Section 15162.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

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

- * ITEM-61: California Energy Commission Energy Efficiency Financing for Facility Improvements.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 12/5/2006, Item 53. (Council voted 7-0. Councilmember Madaffer not present):

(O-2007-51) ADOPTED AS ORDINANCE O-19571 (New Series)

Authorizing the Mayor, or his duly designated representative, to execute, for and on behalf of the City, a Fifteen-Year Loan Agreement with California Energy Commission in the amount of \$2,226,689 at the rate of 4.5% interest, to upgrade mechanical and electrical systems at City facilities, and to comply with all terms and conditions, as set forth in Energy Conservation Assistance Account Loan Agreement No. 007-06-ECC;

Authorizing the expenditure of an amount not to exceed \$300,000 from Capital Outlay Fund No. 30245, solely and exclusively, to provide reimbursable funds as an advance for the above upgrades at City facilities;

Authorizing the City Auditor and Comptroller to deposit loan proceeds received from the California Energy Commission into Fund No. 30244 and to expend funds as directed by the administering department.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

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



ITEM-100: Award of Contract for Lease of Four (4) Heavy Duty Wheel Tractor Push-Pull Scrapers with Full Maintenance.

(Miramar Marine Corps Air Station. District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-297) CONTINUED TO TUESDAY, JANUARY 23, 2007

Accepting the lowest responsible bid of Hawthorne Machinery Company meeting the specifications of City Request for Bid No. 8229-06-Z for the lease of four heavy duty wheel tractor push-pull scrapers with full maintenance;

Authorizing the Mayor, or his designee, to execute a contract with Hawthorne Machinery Company in connection with the above bid, for a term of one year, with options to renew for four additional one-year periods, as set forth in Request for Bid No. 8229-06-Z and related bid documents;

Authorizing the expenditure of an amount not to exceed \$2,414,087.20, solely and exclusively, to provide funds for the above contract, to be expended as follows: \$796,648.78 from Fund No. 30244, CIP-37-056.0, West Miramar Refuse Disposal Facility-Phase II; and \$1,617,438.42 from Fund No. 41200, Department 752, Refuse Disposal Enterprise Fund;

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

Declaring the above activity is not a project, as defined in CEQA Guidelines Section 15378(b)(2), and is therefore not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

The City of San Diego's Miramar Landfill receives over 1.4 million tons of trash per year. State and Federal laws mandate that the trash be covered at the close of business each day to ensure public health and safety. Although a tarping system is utilized at the site to maximize capacity, dirt is still required to help meet the regulatory standards.

These four (4) push-pull scrapers will be utilized to excavate future disposal areas; haul over burden materials to and from stockpiles; and haul daily cover. The Miramar Landfill has implemented an ISO 14001 compliant Environmental Management System (EMS). Per our EMS policy's on-going goal of continuous improvement, the engines in these push-pull scrapers will employ Caterpillar's latest technological innovations; are U.S. EPA Tier III compliant; and will utilize the recently mandated ultra-low sulfur diesel fuel.

FISCAL CONSIDERATIONS:

The proposed lease agreement would require the expenditure of an estimated \$2,414,087.20 during the initial year of the agreement, \$796,648.78 (33%) from CIP-37-056.0, West Miramar Refuse Disposal Facility - Phase II, and \$1,617,438.42 (67%) from Fund 41200, Department 752, Refuse Disposal Enterprise Fund. Excess budgeted funds, if any, would be transferred to the appropriate reserves.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

City Council Resolution Number R-298055 was adopted on April 30, 2001, for award of a contract to Hawthorne Machinery Company for furnishing up to six (6) heavy duty wheel tractor scrapers for a period of one (1) year beginning May 1, 2001 through April 30, 2002, with options to renew the contract for four (4) additional one (1) year periods. This contract is currently being extended on a month-to-month basis pending award of a new contract.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Thirty-nine (39) potential proposers were contacted. The Purchasing and Contracting Department advertised for sealed proposals in the Public Record Reporter for about two weeks, in accordance with SDMC § 22.3211(d). Also, the request was posted in the City of San Diego's official internet site. One (1) bid package was received per the attached bid tabulation sheet.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Citizens of San Diego
Waste Haulers
Hawthorne Machinery Company

Heap/Haas

Aud. Cert. 2700350.

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:25 a.m. – 11:27 a.m.)

MOTION BY FRYE TO CONTINUE TO TUESDAY, JANUARY 23, 2007, FOR FURTHER REVIEW. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-101: Reallocation of HUD 108 Loan Funds for Public Improvement Projects in Council District 3.

(See Report to the City Council No. 07-009. City Heights Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-618) ADOPTED AS RESOLUTION R-302254

Approving the reallocation of HUD Section 108 Loan Funds within Fund No. 18521 (District 3 Public Improvements Loan Fund), set forth in Report to the City Council No. 07-009, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the Mayor, or his designee, to enter into agreements (or any amendments thereto), as needed, for those projects approved to receive the reallocated loan funds, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the City Auditor and Comptroller to appropriate, transfer, and expend the HUD Section 108 loan funds for those projects approved to receive the reallocated loan funds;

Authorizing an amendment to the Fiscal Year 2007 Capital Improvement Program Budget to reflect the approved reallocation of HUD Section 108 loan funds;

Authorizing an amendment to the Fiscal Year 2007 CDBG Action Plan to reflect the use of \$150,000 in HUD Section 108 loan funds for the Park de la Cruz Children's Play Area Project.

Aud. Cert. 2700351.

Staff: Bonnie Contreras - (619) 236-6846
Michael D. Neumeyer - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

* ITEM-102: Transfer of Funds to de Portola Fields-Comfort Station and Storage Facility for Landscape Upgrade.

(Tierrasanta Community Area. District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-388) ADOPTED AS RESOLUTION R-302255

Authorizing the Mayor, or his designee, to de-appropriate the amount of \$23,490.40 from Capital Improvement Project CIP-29-656.0 (Vista Grand Elementary School Joint Use Improvements), with funds to be returned to Tierrasanta Facilities Benefit Assessment Fund (FBA) No. 79005;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$23,490.40 from Tierrasanta FBA Fund No. 79005 to CIP-29-615.0 for the de Portola Fields-Comfort Station and Storage Facility Project (Project);

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 exempt from CEQA pursuant to State CEQA Guidelines Section 15303.

STAFF SUPPORTING INFORMATION:

De Portola Fields is within the Tierrasanta Community and is nearing completion of the construction of a comfort station with associated upgrades to the path of travel and fire access. This project has impacted the existing turf and irrigation causing the Maintenance Assessment District to relocate laterals and valves at the location of the new building and relocated laterals along the fire access road, and reestablish the turf. In addition, the Tierrasanta Recreation Council has requested the installation of barriers to redirect traffic away from a new sidewalk extending from Clairemont Mesa Drive, to the rear parking lot.

A transfer of funds from Vista Grande to de Portola would reimburse the Maintenance Assessment District for expenses incurred during the construction of de Portola Fields-Comfort Station & Storage Facility and the addition of a barrier along the new sidewalk. Both Vista Grande Joint Use Area and de Portola Fields-Comfort Station and Storage Facility serve the Tierrasanta population, and have been funded in part by the Tierrasanta Facilities Benefit Assessment.

FISCAL CONSIDERATIONS:

Funding is available in CIP-29-656.0, Vista Grande Elementary School Joint Use Improvements, Fund 79005, Tierrasanta Facilities Benefit Assessment because the project has been completed.

ENVIRONMENTAL CONSIDERATIONS:

This activity is exempt from CEQA pursuant to State CEQA Guidelines Section 15303 (New Construction, Conversion of Small Structures).

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Council authorization of the de Portola Middle School Joint Use Agreement occurred on October 10, 2005 (Ordinance O-19418). Council authorization of the Application for and Expenditure of State Grant Funds under 2002 Resources Bond Act occurred on December 7, 2004 (Resolution R-299940).

Council authorized the transfer of \$75,000 from CIP-29-656.0, Vista Grande Elementary School Joint Use Improvements, Fund 79005, occurred on September 12, 2006.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The de Portola Fields-Comfort Station & Storage Facility was presented by Council Member Jim Madaffer, in two community group meetings in 2002. The consultants and City staff met with staff members of de Portola Middle School in early 2003. Subsequently, the project was noticed and presented to the Tierrasanta Recreation Council on April 10, 2003. Additional presentations to the Recreation Council occurred in June, July, and September of 2003. A presentation was given to the Facilities Access Review Committee on November 18, 2003. The Community Planning Group reviewed the plans in April 2005 and recommended approval. On August 23, 2006, the Tierrasanta Recreation Council met to discuss the transfer of \$75,000 to the construction budget and an additional \$23,490.40 for landscape renovations and improvements as discussed above.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Tierrasanta Recreation Council, Tierrasanta Little League, de Portola Middle School (San Diego Unified School District), TreeBeard Landscaping.

Penera/Martinez

Aud. Cert. 2700398.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

* ITEM-103: Park Boulevard Pedestrian Bridge.

(Downtown Community Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-659) ADOPTED AS RESOLUTION R-302256

Authorizing the Mayor, or his designee, to accept all necessary rights of way required for the development of the Park Boulevard Pedestrian Bridge.

STAFF SUPPORTING INFORMATION:

The Ballpark District Plan contemplated a reconfigured Park Boulevard, completing the 100-year old vision of the Park-to-Bay-Link (Balboa Park to San Diego Bay) across Harbor Drive with an open view corridor and access to the waterfront. The original District Plan drawings included an at-grade vehicular and pedestrian crossing at the existing railroad and trolley tracks just north of Harbor Drive. California Public Utilities Commission (CPUC) staff and the Burlington Northern and Santa Fe Railway (BNSF) requested that this intersection be grade-separated, either raising Park Boulevard above the tracks or depressing the tracks below street level.

To fulfill the December 2003 CPUC decision, CCDC, on behalf of the Redevelopment Agency and in cooperation with the City of San Diego, is developing a pedestrian bridge at the intersection of Park Boulevard and Harbor Drive in the East Village neighborhood of downtown adjacent to Petco Park. The bridge structure will provide a safe, convenient, and legal pedestrian crossing over Harbor Drive and the BNSF and MTS railroad tracks, spanning from the existing Convention Center Hotel Parking Structure on the south side of Harbor Drive to the proposed site of the Ballpark Village development on the north side. The bridge will also help improve traffic circulation and fire and life safety access to and from the waterfront, Barrio Logan, and a rapidly developing East Village neighborhood. The CPUC decision requires that this grade-separated pedestrian crossing of the railroad tracks be operational prior to establishment of a vehicular grade crossing at Park Boulevard.

Due to the high civic importance of the project location, the pedestrian bridge must provide an extremely high level of aesthetic quality as this project is viewed by the community as a gateway to the downtown area with a need for a dramatic design.

The self-anchored suspension bridge design features a 500' curved span, stainless steel wrapped suspension cable railing, a 2-car glass elevator tower, landscaped plazas improved with architectural paving, and public art installations throughout. The clear-span suspension structure will consist of a 130' inclined reinforced concrete tower supported with dual cable back-stays.

The project is expected to begin construction in 2007, with completion targeted in 2008.

FISCAL CONSIDERATIONS:

The Redevelopment Agency approved all necessary funding for right of way activities as part of this project on February 8, 2005 by Resolution R-03868.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

CCDC has worked with various stakeholders representing government agencies, private landowners/developers, and community associations that have been involve throughout, either through a direct contractual obligation, design review/approval/permitting responsibility, or for community support and concurrence.

Barwick/Waring

Staff: David Sandoval - (619) 236-5548
John H. Serrano - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.



ITEM-104: Fiscal Year 2007 Think Blue Outreach Services Agreement with Katz & Associates and Collaborative Services.

(Continued from the meeting of December 5, 2006, Item 106, at the request of Councilmember Atkins, for further review.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-625 Rev. Copy) ADOPTED AS RESOLUTION R-302277

Authorizing the Mayor, or designee, to execute, for and on behalf of the City, an Agreement with two, one year options to renew, with Katz & Associates and Collaborative Services for outreach consulting services for the Think Blue education and outreach campaign;

Authorizing the Mayor, or designee, to enter into a contract with Katz & Associates with two, one year options to renew in an amount not to exceed \$152,000;

Authorizing the Mayor, or designee, to enter into a contract with Collaborative Services with two, one year options to renew in an amount not to exceed \$68,000;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$220,000 from the Metropolitan Wastewater Department, Storm Water Pollution Prevention Program, General Fund 100 to provide funds for the contracts with Katz & Associates and Collaborative Services to conduct educational outreach services citywide for the Think Blue Education and Outreach Campaign;

Declaring Finding this activity is not a project and is therefore not subject to from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(2).

STAFF SUPPORTING INFORMATION:

The City of San Diego Storm Water Pollution Prevention Division is responsible for reducing the effects of storm water pollution and urban runoff into the City's receiving waters. In addition to water quality monitoring, enforcement activities, regional watershed coordination and oversight of the City's municipal activities, the Division is also responsible for public education and outreach and changing the pollution-related behaviors of residents, businesses and industries.

In an effort to meet the requirements of the Regional Water Quality Control Board's soon to be issued, Total Maximum Daily Loads regulations in Chollas Creek and Areas of Biological Significance in La Jolla, the Storm Water Pollution Prevention Division is initiating an extensive education and outreach campaign. The campaign will employ Community Based Social Marketing practices, an emerging public education field using social psychology research methods and behavior modification strategies to change behavior. The goals of the "Think Blue" campaign include: increased awareness that storm water flows into water bodies untreated, increased public support for the City's efforts to clean San Diego's beaches and bays, changed behaviors from those that pollute water bodies to non-water polluting behaviors and, measurement of sustained, positive behavior changes.

In May 2006, the City advertised for education and outreach consultants via an RFQ process. The City's Consultant Services Coordinator released a Statement of Qualifications for Consulting Services and provided the names of three firms who responded. Each of the firms was interviewed in accordance with Council Policy 300-7. Katz & Associates and Collaborative Services were selected as the most qualified. The Agreement will allow the Division to receive education and outreach consulting services on an as-needed basis for an amount not to exceed \$220,000. The consulting services will begin in FY 2007 with two, one-year options to renew, and will include, but is not limited to, analyzing data provided by polling consultants to develop messages and outreach strategies to conduct outreach to residents, businesses and community groups throughout the City of San Diego with first year activities focusing on the Chollas Creek and La Jolla Shores areas.

FISCAL CONSIDERATIONS:

The City will expend funds in the amount not to exceed \$220,000 from the Metropolitan Wastewater Department, Storm Water Pollution Prevention Division Operating Fund (#100) for the purposes of performing education and outreach professional activities.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Consultant services will help augment and implement the City's education and outreach efforts of the Think Blue Storm Water Pollution Prevention Program and the Think Blue Campaign, which endeavors to change the polluting behaviors of residents, business and industry across the region to comply with the soon to be issued Total Maximum Daily Load regulations from the Regional Water Quality Control Board.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Key stakeholders include San Diego residents, businesses, and industry in all council districts across the region.

Tulloch/Haas

Aud. Certs. 2700399 and 2700400.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:28 a.m. – 11:59 a.m.;
2:02 p.m. – 2:04 p.m.)

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



ITEM-105: Think Blue Public Service Announcements, Fiscal Year 2007.

(Continued from the meeting of December 5, 2006, Item 105, at the request of Councilmember Atkins, for further review.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-597 Rev. Copy) ADOPTED AS RESOLUTION R-302278

Authorizing the Mayor, or designee, to execute a contract with FourSquare Productions, to produce one (1) Public Service Announcement (PSA), and to edit closing images of previously produced PSAs for the Think Blue education and outreach campaign in the amount not to exceed \$56,000;

Authorizing the Mayor, or designee, to execute a contract with American Dream Cinema, to produce two (2) Public Service Announcements (PSAs), and to edit closing images of previously produced PSAs for the Think Blue education and outreach campaign in the amount not to exceed \$107,000;

Authorizing the City Auditor and Comptroller to ~~appropriate and~~ expend an amount not to exceed \$56,000 from the Metropolitan Wastewater Department, Storm Water Pollution Prevention Program, General Fund 100 to provide funds for the contract with FourSquare Productions to produce one (1) Public Service Announcement (PSA), and to edit closing images of previously produced PSAs for the Think Blue education and outreach campaign;

Authorizing the City Auditor and Comptroller to ~~appropriate and~~ expend an amount not to exceed \$107,000 from the Metropolitan Wastewater Department, Storm Water Pollution Prevention Program, General Fund 100 to provide funds for the contract with American Dream Cinema to produce two (2) Public Service Announcements (PSAs), and to edit closing images of previously produced PSAs for the Think Blue education and outreach campaign;

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

STAFF SUPPORTING INFORMATION:

The City of San Diego is one of 18 municipal jurisdictions, along with the County of San Diego, Port of San Diego and the Airport Authority, which are jointly regulated by the Municipal Storm Water Permit from the San Diego Regional Water Quality Control Board.

The Municipal Permit (Order No. 2001-01) requires each co-permittee to undertake specific storm water pollution prevention, abatement, enforcement and education activities. In the City of San Diego, all education, outreach and public advocacy programs designed to achieve compliance with the Municipal Storm Water Permit are implemented by the "Think Blue" Campaign in the Storm Water Pollution Prevention Division of the Metropolitan Wastewater Department. Furthermore, the new Municipal Permit which will be issued under Fiscal Year 2007 requires continued outreach and education efforts towards residents, businesses and other members of the general public, with an emphasis on watershed awareness.

In May 2006, the City issued and officially advertised a Request for Proposal (RFP) soliciting submittals from production companies to produce Public Service Announcements (PSAs) for the Think Blue campaign. Two production companies submitted proposals, and both were found to be responsive to the RFP. Interviews were held September 7, 2006, and both companies were asked to present an original concept written by the City, along with the opportunity to present their own concepts. FourSquare Productions was selected by the interview panel to produce one PSA, and American Dream Cinema was selected to produce two PSAs, one of which is designed to include the City of San Diego's original concept, "Ironic Beauty". In addition, both companies were also asked to submit proposals for the costs associated to edit PSAs that were previously produced by each company for the Think Blue Campaign.

The amount awarded to FourSquare Productions shall not exceed \$56,000 for production of one (1) Public Service Announcement and for editing the closing images of previously produced PSAs, upon receipt of a fully executed contract. The amount awarded to American Dream Cinema shall not exceed \$107,000 for production of two (2) Public Service Announcements, and for editing the closing images of previously produced PSAs, upon receipt of a fully executed contract. Timeline for delivery of the PSAs is scheduled for the first quarter of calendar year 2007.

FISCAL CONSIDERATIONS:

The City will expend funds in the amount of \$163,000 from the Metropolitan Wastewater Department, Storm Water Pollution Prevention Program General Fund (# 100) for the purpose of Think Blue Storm Water Pollution Prevention and Outreach to meet compliance for the current and updated permit.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Think Blue™ is a wholly owned entity of the City of San Diego, holding trademark status with the United States Government Office of Trademarks and Patents, and therefore is not required to solicit public input or participation. In the past, Think Blue PSAs have been well received in the community and endorsed by the Unified Port of San Diego, the County of San Diego, San Diego Coastkeeper and the municipal co-permittees. Production of PSAs furthers the education and outreach efforts of the Think Blue Storm Water Pollution Prevention Program and the Think Blue Campaign, which endeavors to change the polluting behaviors of residents, business and industry across the region in accordance with the requirements of The Municipal Permit (Order No. 2001-01).

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Key stakeholders include San Diego residents, businesses, and industry in all Council Districts across the region. Included in these stakeholders are non-profit agencies such as Coastkeeper, Surfrider Foundation, I Love a Clean San Diego, Port of San Diego, County of San Diego, the Regional Airport Authority and the remaining Municipal Co-Permittees.

Ferrier/Haas

Aud. Certs. 2700359 and 2700360.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:28 a.m. – 11:59 a.m.;
2:02 p.m. – 2:05 p.m.)

This project is a two phase approach to developing a Long Term Solid Waste Management Strategic Plan. Phase I will include identifying and evaluating options, facilities and technologies, while working with an advisory committee, to address the City's solid waste management needs through the year 2030. Phase II will provide more detailed analysis of select options, development of financial plans, recommendations for policy changes and the development of a Strategic Plan describing and analyzing how best to implement these options.

The Consultant selection process was a competitive process, in accordance with Administrative Regulations 25.60. Four Consulting firms submitted proposals and were interviewed. Bryan A. Stirrat and Associates was selected based on their expertise in the solid waste field, knowledge in alternative technologies and their experience in preparing long range strategic plans.

FISCAL CONSIDERATIONS:

Funds are available in Refuse Disposal Enterprise Fund, CIP-37-254.0 (Future Landfill and Transfer Facilities) for this project.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This project will include the development and facilitation of a participatory process involving the community and various stakeholders and will be called the Solid Waste Advisory Committee.

KEY STAKEHOLDERS:

City of San Diego residents and businesses, Solid Waste Haulers, US Department of the Navy.

Heap/Haas

Aud. Cert. 2700382.

Staff: Sylvia Castillo - (858) 492-5032.
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:05 p.m. – 2:13 p.m.)

MOTION BY FRYE TO REFER THE ITEM TO THE NATURAL RESOURCES AND CULTURE COMMITTEE ON WEDNESDAY, JANUARY 24, 2007, AND COME BACK TO COUNCIL IMMEDIATELY THEREAFTER. 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-107: Second Amendment to Agreement C-13595 for Consultant Services with URS Corporation.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-626) ADOPTED AS RESOLUTION R-302257

Authorizing the Mayor to execute, for and on behalf of the City of San Diego, a Second Contract Amendment in an amount of \$67,000 with the URS Corporation to provide consultant services to assist the City in rewriting the San Diego Urban Area Security Strategy, updating our Emergency Operations Plan and develop an Emergency Operations Center Procedure Manual.

STAFF SUPPORTING INFORMATION:

The City's Emergency Operations Plan (EOP) was last updated in 1997. As a pre-requisite for receipt of FY 06 Homeland Security grant funds, the City participated in a self-assessment and certification of our EOP. The nationwide assessments were reviewed by the Department of Homeland Security Peer Review Teams who found the majority of the Nation's then current emergency operations plans and planning processes not to be fully adequate, feasible, or acceptable to manage catastrophic events.

The County of San Diego contracted with URS Corporation as has many of the other local jurisdictions to update their respective EOPs. URS Corporation has considerable experience and is familiar with regional operations, our processes during emergencies, and activations of our plans. The City's Office of Homeland Security has a current Agreement in place with URS to update our regional Security Strategy as required under our homeland security grants. That agreement allows for additional task orders not to exceed

a total contract of \$250,000. The additional cost to Agreement C-13595 as a result of this amendment is \$67,000. This Amendment will bring the total contract amount to \$215,000. The original contract was approved by City Manager Lamont Ewell with a "not to exceed" cap of \$250,000.

URS Corporation has been issued three contracts by various City departments this Fiscal Year with a current total value of \$294,000. This amendment is now required to be approved by Council for issuance.

This project is funded with grant funds that have an expiration date of March 31, 2007.

FISCAL CONSIDERATIONS:

There are no fiscal impacts. All expenses will be paid through our FY 05 State Homeland Security Grant funds. This grant has no local match requirement.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

City Council previously passed Resolution R-300700 dated 7/25/2005 authorizing the application for acceptance of and expenditure of Federal FY 05 Homeland Security grants.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

N/A.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

City Emergency Managers, Elected Officials, Department Heads, and the citizens of San Diego will benefit from this project to update our EOP and create an Emergency Operations Center (EOC) manual. A clear and up-to-date Emergency Plan and EOC manual for responding to natural disasters, disease outbreaks, or a terrorist attack will provide better and updated guidelines for our response and recovery operations and will aid the decision making process.

Olen

Aud. Cert. 2700388.

Staff: Donna Faller - (619) 533-6763
Nooria Faizi - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

* ITEM-108: Marketing Partnership Agreement with Verizon Wireless.

(See Report to the City Council No. 07-007.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-353) ADOPTED AS RESOLUTION R-302258

Authorizing the Mayor to enter into a Marketing Partnership Agreement with Verizon Wireless;

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 \$75,000, payable at the rate of \$25,000 per year for the first two years of the term of the Verizon Marketing Partnership Agreement and one additional optional year, 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 Verizon Wireless (Verizon). The term of the Agreement is two years with three one year renewal options. Under the Agreement, Verizon will pay the City a \$250,000 annual marketing rights fee which will total \$1,250,000 over five years. In addition, Verizon will donate \$30,000 in phones and service to the San Diego Family Justice Center. In exchange, Verizon will receive marketing rights and benefits which are fully explained in the Report to City Council and Marketing Partnership Agreement with Verizon. The proposed Agreement was developed through the standard procurement process in conjunction with a Request for Proposal for wireless goods and services.

FISCAL CONSIDERATIONS:

A \$250,000 annual marketing rights fee to be paid by Verizon Wireless to the City for each year that Verizon has the City's contract for wireless goods and services. The term of the Marketing Partnership Agreement is two years with three one year renewal options.

A transaction fee of \$25,000 will be paid to The Pathfinder Group, the City's consultant, as per the Marketing Consultant Agreement for the first year of the partnership. An additional \$25,000 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 \$450,000 to \$1,175,000 depending on the length of the wireless contract. 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, Verizon Wireless.

Wolff/Goldstone

Aud. Cert. 2700183.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

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

- * ITEM-109: Agreements with Verizon Wireless, Sprint Nextel Corporation and New Cingular Wireless for Wireless Equipment and Services.

(See Report to the City Council No. 07-012.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-340) ADOPTED AS RESOLUTION R-302259

Awarding contracts to Verizon Wireless, Sprint Nextel Corporation and New Cingular Wireless to provide Wireless Equipment and Services as may be required award for a period of 2 years effective on December 1, 2005, under the terms and conditions set forth in the Agreements, provided that the City Auditor and Comptroller first certify that funds for said expenditures are appropriated and unexhausted;

Authorizing the Mayor, or his designee, to execute options for up to three one-year periods, provided that the City Auditor and Comptroller first certify that funds for said expenditure are appropriated and unexhausted;

Certifying this activity is excluded from the definition of project pursuant to CEQA Guidelines Section 15378(b)(2) and therefore is exempt from CEQA pursuant to the State Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

On March 1, 2005, the City issued a Request for Proposal (RFP) and Marketing Partnership for Wireless Communications Goods and Services. The scope of services requested in this RFP included commercial wireless telephone service, wireless data service and related equipment for both types of services. Responses were received from Verizon Wireless, Sprint, Nextel Communications and Cingular Wireless LLC, respectively. During the period of this RFP process, Nextel Communications and Sprint merged into one company named Sprint Nextel Corporation. All responses met the RFP requirements and it was determined that all proposers could provide the City with the necessary level of wireless telephone and data service, and equipment.

FISCAL CONSIDERATIONS:

These are requirements contracts with specified rates for wireless telephone and wireless data services and equipment. Based upon rates proposed and projected City usage of wireless telephone and wireless data services, the estimated fiscal impact to the City of San Diego for a two year period is approximately \$4,000,000. These costs are comparable to what the City is currently paying, and budgeted for this equipment and services.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

N/A.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

N/A.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The City's RFP asked proposers if they were interesting in entering into a marketing partnership with the City of San Diego. A proposed Marketing Partnership Agreement with Verizon Wireless is being docketed for Council approval as a separate companion item and is described in a companion Mayor's Report.

McGarvey/Reynolds

Aud. Certs. 2700170, 2700171 and 2700172.

Staff: Sue Levine - (619) 252-8651
Timothy J. Miller - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

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

- * ITEM-110: Consultant Agreement with DeLorenzo Incorporated for Carmel Valley Skate Facility Project.

(Carmel Valley Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-671) ADOPTED AS RESOLUTION R-302260

Authorizing the Mayor, or his designee, to execute a Consultant Agreement (Agreement) with DeLorenzo Incorporated, for professional services for the Carmel Valley Skate Facility (Project) under the terms and conditions set forth in the Agreement;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$291,000 from CIP-29-887.0, Carmel Valley Skate Facility, Fund No. 79002, Carmel Valley North Facilities Benefit Assessment, for the purpose of providing funds for the Project, provided the City Auditor and Comptroller first furnishes a certificate certifying that funds necessary for the expenditure 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 funds, if any, to the appropriate reserves;

Declaring this activity is not a "project" and is therefore not subject to 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. Any construction activities related to the skate facility will require environmental review under the provisions of CEQA.

STAFF SUPPORTING INFORMATION:

The proposed Carmel Valley Skate Facility will be located at the northwest corner of El Camino Real and Elijah Court next to the new Northwestern Area Police Station at 12780 El Camino Real in the community area of Carmel Valley in Council District 1.

On December 7, 2004, the City awarded a design-build contract for the Northwestern Area Police Station and Community Service Center (CSC) to be constructed at the intersection of El Camino Real and Elijah Court in Carmel Valley, CIP-36-059.0. In the original design-build proposal, this project was to include a CSC. The CSC was eliminated from the project and 15,000 square feet of the site became available for another use.

The community expressed a desire in using this site to develop a new skate facility. The site is located near the Carmel Valley Community Facility. The initial funding of \$50,000 in Fund No. 390662, Sub Area II Planned Developer Impact Fee (PDIF) was approved previously by the Council to allow City staff to study the viability of placing a skate facility at this location.

The approval of this action will allow the Engineering and Capital Projects Department to execute the consultant agreement with DeLorenzo Inc., to provide the professional services required for the preparation of the construction documents and construction administration for the improvements of the project, which include concrete skate facility, restroom/concession building, a small spectator area, site lighting for night use and landscape. The Engineering and Capital Projects Department will solicit additional community input prior to initiating design of the skate facility.

FISCAL CONSIDERATIONS:

Funding for this action is available from Fund No. 79002, Carmel Valley North Facilities Benefit Assessment.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On August 1, 2005, City Council adopted Resolution R-300716 amending Fiscal Year 2006 Capital Improvement Program by adding CIP-29-887.0, Carmel Valley Skate Facility and increasing the budget amount by \$50,000 from Fund No. 390662, Sub Area II PDIF, for the initiation of this project.

On September 26, 2006, City Council adopted Resolution R-301929 amending Fiscal Year 2007 Capital Improvements Program by increasing the budget amount by \$400,000 from CIP-29-887.0, Carmel Valley Skate Facility in Fund No. 79002, Carmel Valley North Facilities Benefit Assessment (FBA), for the design of this project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On July 27, 2004, the Carmel Valley Community Planning Board (CVCPB) voted unanimously to remove the Community Service Center from the Police Station design due to the cost exceeding what was available in the Facilities Benefit Assessment.

On May 10, 2005, the CVCPB appointed a Skate Park Subcommittee to discuss the idea of a skate park as a response to several community requests.

On September 12, 2006, the CVCPB voted unanimously to support the allocation of \$400,000 of FBA for the Skate Facility.

Once the execution of the agreement with the design consultant is approved, Engineering and Capital Projects staff will initiate public outreach through design process per City Council Policy 600-33.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Carmel Valley Recreation Council
Carmel Valley Community Planning Board (CVCPB)
Carmel Valley Skate Park Focus Group as Subcommittee of CVCPB
Prime Consultant: DeLorenzo, Inc., Sub-Consultants: Site Design Group, Inc., Arc Pac, Inc.,
Burkett & Wong, Edaw, BSE Engineering, Darnell & Associates, Geocon, Inc.

Oskoui/Haas

Aud. Cert. 2700371.

Staff: Afshin Oskoui - (619) 533-3102
Christina L. Bellows - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

* ITEM-111: Lease Agreement – Experimental Aircraft Association, Chapter 14, Inc.

(See Report to City Council 07-008. Otay Mesa Community Area. District 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-596) ADOPTED AS RESOLUTION R-302261

Authorizing the Mayor to execute, for and on behalf of the City of San Diego, a 10-year lease agreement with the San Diego Chapter 14 Experimental Aircraft Association (EAA), a California nonprofit corporation, for the purpose of educating members in aeronautical sciences and engineering, at an initial annual rent of \$18,684, under the terms and conditions set forth in the Lease Agreement;

Declaring that this agreement shall include a 5-year option to extend and one option to increase the size of the premises;

Waiving Council Policy 700-41 regarding the use of the Request for Proposal (RFP) process for the lease of City-owned land, for the reasons that EAA is a non-profit aeronautic use and an existing lessee.

Staff: Mike Tussey - (619) 533-1441
John H. Serrano - Deputy City Attorney

FILE LOCATION: LEAS – Experimental Aircraft Association, Chapter 14 Inc.

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

* ITEM-112: Seismic Retrofit of the Garnet Avenue Bridge over Rose Canyon Creek (Bridge No. 57C-312).

(Pacific Beach Community Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-633) ADOPTED AS RESOLUTION R-302262

Authorizing the Mayor, or his designee, for and on behalf of the City, to make an application for additional grant funding from the Federal Highway Bridge Program (HBP) for the purpose of constructing the Seismic Retrofit of Garnet Avenue Bridge over Rose Creek Project, and accepting the Program Supplement to Local Agency-State Agreement for Federal Aid Project No. 11-5004 (151) in the amount of \$87,400;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$87,400 from CIP-53-037.0, Earthquake Restrainers for Bridges, Fund 38739, HBP, for the purpose of construction engineering and related costs for the Seismic Retrofit of Garnet Avenue Bridge over Rose Canyon Creek (Job Order 530389), contingent upon receipt of an FNB-76 (Version E-76) Caltrans Funding Authorization, and the City Auditor and Comptroller first certifying that the funds are, or will be, on deposit in the City Treasury;

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

Declaring this activity is covered under Negative Declaration LDR No. 98-0284 (Garnet Avenue Bridge Seismic Retrofit), adequately addressed therein, and there is no change in circumstance, additional information, or project changes to warrant additional environmental review.

STAFF SUPPORTING INFORMATION:

The Garnet Avenue Bridge over Rose Canyon Creek was built in 1939 and was identified as a seismically deficient bridge. This retrofit project is bringing the bridge to current design standards. The total construction cost is 80% federally funded by Highway Bridge Program (HBP) and 20% is the City local match. Construction for this project began in January 2006. While drilling the 60-inch Cast-In-Drill-Hole (CIDH) piles, the contractor encountered large boulders and riprap that weren't anticipated in the construction plans. Neither the bridge as-builts nor the boring log showed any large boulders or riprap on the plans. Due to this unforeseen change of condition, the project incurred an additional \$95,000 in construction costs, for which the contractor has been paid.

FISCAL CONSIDERATIONS:

The current appropriation for this project is \$999,609 with this action the total project cost will be increased to \$1,087,009. Of the additional \$95,000, of which \$87,400 is available in Fund 38739, HBP, and \$7,600 of matching fund is available in TransNet, Fund 30300, which was previously appropriated to the project.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Accepting Program Supplement No. 11-5004 (151) and authorization to proceed with construction (Resolution R-300938, dated October 17, 2005).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Pacific Beach Town Council was informed of the project prior to construction start date.

KEY STAKEHOLDERS:

Federal Highway Administration (FHWA) and CALTRANS

Boekamp/Haas

Staff: Dave Zoumaras - (619) 533-3138
Jeremy A. Jung - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

* ITEM-113: Route 52 Property Sale to California Department of Transportation.

(City of Santee.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-647) ADOPTED AS RESOLUTION R-302263

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, a grant deed to the California Department of Transportation for conveyance to CalTrans, of surface rights over two parcels of property (APN-384-141-14), within the Santee Community;

Authorizing the City Auditor and Comptroller, or his designee, to accept and deposit \$375,000 from CalTrans into the Water Department Capital Outlay Fund.

STAFF SUPPORTING INFORMATION:

Staff is seeking Council approval for the sale of surface rights over two portions of city property to the California Department of Transportation (CalTrans) for the construction of State Route 52. CalTrans made an offer of \$375,000 for the two parcels which total 38,501 square feet. The City will retain sub-surface rights for the existing pipeline via a Consent to Common Use Agreement (CCUA) or Joint Use Agreement (JUA) with CalTrans.

FISCAL CONSIDERATIONS:

The City will receive a total of \$375,000 dollars from CalTrans for the two parcels, which will go to the Water Department General Fund.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

CalTrans has been conducting various community meetings over the past several years for the 52 project.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The Route 52 Project will have regional impacts for the County and the Santee community when completed.

Barwick/Waring

Staff: David Sandoval - (619) 236-5548
Todd Bradley - Deputy City Attorney

FILE LOCATION: DEED F-10033

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

* ITEM-114: Grant from California Office of Traffic Safety/University of California at Berkeley for Sobriety Checkpoints.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-617) ADOPTED AS RESOLUTION R-302264

Authorizing the Mayor, or his designee, for and on behalf of the City of San Diego, to apply for, accept, and expend these grant funds from the California Office of Traffic Safety, via the University of California at Berkeley;

Authorizing the Mayor, or his designee, to execute all aspects of program operation, including any amendments, extensions, or renewals, for a period of up to five years, provided funding is made available by the State of California for the same purpose(s), and to certify that the City will comply with all applicable statutory or regulatory requirements related to said program;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend \$125,683.20 in grant funds, when the grant is officially authorized by the State of California Office of Traffic Safety;

Authorizing the Chief of Police to administer and operate this program; and that this authorization shall include all purchases, acquisitions and staff assignments necessary for the successful implementation of the grant project;

Declaring that any resources received hereunder shall be used to supplement, and not to supplant, expenditures controlled by this body.

STAFF SUPPORTING INFORMATION:

The California Office of Traffic Safety has selected SDPD to receive a "Sobriety Checkpoint" grant. The grant will be administered by the University of California at Berkeley.

The goal of the program is to conduct sobriety checkpoints to detect drivers who are under the influence of drugs or alcohol. This will reduce the number of victims killed and injured in alcohol-involved crashes.

Checkpoints will be conducted between October 2006 and September 2007. This time period includes two statewide and national mobilizations, over the winter holidays and Labor Day, as well as other periods.

The grant provides \$125,683.20 for officer overtime. A minimum of nine checkpoints will be conducted during the program period.

FISCAL CONSIDERATIONS:

The grant program requires no commitment of City or SDPD resources beyond those that are covered by grant funds. Minor costs for the use of vehicles and equipment such as Intoxilyzers will occur as part of these operations. However, these are routine costs that would occur in the absence of the grant-funded program.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Because the purpose of the checkpoints is to prevent impaired driving, the checkpoints are publicized to the public ahead of time.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

None.

Lansdowne/Olen

Staff: Donna J. Warlick - (619) 531-2221
Linda L. Peter - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

* ITEM-115: Funds Adjustment to Satisfy Terms of Settlement – Westbrook Torrey Hills. L.P. vs. City of San Diego, SDSC Case No. GIC82339.

(Carmel Valley/Torrey Hills Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-266) ADOPTED AS RESOLUTION R-302265

Authorizing the City Auditor and Comptroller to transfer the sum of \$300,000 from Fund No. 79008 (Carmel Valley South FBA) to Fund No. 10608 (Torrey Reserve Gateway Development);

Authorizing the City Auditor and Comptroller to de-appropriate \$70,000 from Job Order No. 840519 (Tentative Map 840519 and Tentative Map 840520), return fund balance to City Trust Account No. 63022;

Authorizing the City Auditor and Comptroller to transfer \$70,000 from City Trust Fund Account No. 63022, to Fund No.10608;

Authorizing the City Auditor and Comptroller to deposit/credit \$141,000 towards Westbrook's original obligation to Fund No. 10608, contingent upon reimbursement from San Diego Association of Government (SANDAG);

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

STAFF SUPPORTING INFORMATION:

As per the terms of the settlement agreement Westbrook Torrey Hills, L.P. vs. City of San Diego, SDSC Case No. GIC82339, Westbrook owed the City \$600,000 to satisfy its obligation under the Torrey Hills Park Agreement Bond, and the City owed Westbrook for the cost of construction of a street, retaining wall and traffic signal. **Westbrook submitted a check to the City Attorney's Office equaling the net amount Westbrook owed the City, and that check was accepted and deposited.** With acceptance of that payment, the monetary obligations of Westbrook to the City, and of the City to Westbrook, were satisfied. However, internally the City must now adjust its accounting in the various funds to show that those monetary obligations have been met. The Auditor's office has requested Council authorization to perform those adjustments. Specifically, moneys that had originally been due to Westbrook (in three separate accounts including the City Trust Fund) must be transferred into the fund account in which Westbrook took credit for when calculating their net payment to the City.

FISCAL CONSIDERATIONS:

By completing the requested transactions, City accounting will accurately reflect that the following portions of the Settlement Agreement have been satisfied:

- | | |
|-------------|---|
| \$600,000 | Westbrook owed the City (Fund 10608, Torrey Reserve Gateway Development) Section 1.1 B |
| (\$300,000) | Reimbursement to Westbrook satisfied in part by transfer of funds from 79008 (Carmel Valley South FBA) to 10608 (Torrey Reserve Gateway Development) Section 1.1 C |

- (\$141,000) Reimbursement to Westbrook satisfied in part by credit applied to 10608 (Torrey Reserve Gateway Development). This amount is equal to the cost of the additional tasks performed by Westbrook (as required by CALTRANS) in excess of what was required by the City in the original Reimbursement Agreement. The City is responsible for billing SANDAG for the cost of this additional work. **Section 1.1 E**
- (\$70,000) Reimbursement to Westbrook satisfied in part by transfer of funds from City Trust Fund 63022 to Fund 10608 (Torrey Reserve Gateway Development). **Section 1.1 E**
- (\$89,000) Westbrook Payment received/deposited in 10608 (DCR 2006-0015743)
- \$0 As per the Settlement Agreement, Westbrook's financial obligation to City, and the City's financial obligation to Westbrook are both satisfied.

PREVIOUS COUNCIL COMMITTEE ACTION:

This item was discussed at the Closed Session Council Meeting of September 20, 2005. Westbrook Torrey Hills, L.P. vs. City of San Diego, SDSC Case No. GIC82339 was signed by Westbrook on October 6, 2005, and by City Manager Lamont Ewell on October 17, 2005.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None, as this request is to enact necessary accounting procedures to comply with a legal settlement agreement between the City and Westbrook Torrey Hills, L.P.

KEY STAKEHOLDERS:

The key stakeholders are Westbrook Torrey Hills, L.P. and the City of San Diego.

ATTACHMENTS:

Westbrook Torrey Hills, L.P. vs. City of San Diego, SDSC Case No. GIC82339.

Anderson/Waring

Aud. Cert. 2700141.

Staff: Megan Sheffield - (619) 533-3672
David E. Miller - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

* ITEM-116: Settlement of Personal Injury/Wrongful Death Claim of Scot Blevins vs. City of San Diego.

(District 5.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-254) ADOPTED AS RESOLUTION R-302266

Authorizing to pay the sum of \$900,000 to be paid from the Public Liability Fund (81140) in settlement of each and every claim against the City, its agents and employees, arising from the Litigation;

Authorizing the City Auditor and Comptroller to issue a check in the amount of \$300,000 payable to Zurich American Insurance Company;

Authorizing the City Auditor and Comptroller to issue an additional check in the amount of \$394,220 payable to MetLife Tower Resources Group, Inc.;

Authorizing the City Auditor and Comptroller to issue an additional check in the amount of \$3,300 payable to Sonja Blevins;

Authorizing the City Auditor and Comptroller to issue an additional check in the amount of \$202,480 payable to Alan Pinkerton Attorney Client Trust Account.

STAFF SUPPORTING INFORMATION:

The proposed settlement would resolve all claims arising from a personal injury/wrongful death.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Public Liability Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item was considered in Closed Session on September 12, 2006. City Council voted 6 to 1 to approve with one member absent. The motion was made by Councilmember Madaffer with a second by Councilmember Hueso. Council President Peters voted “no” and Councilmember Maienschein was absent.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

N/A.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

N/A.

Byche/Goldstone

Aud. Cert. 2700376.

Staff: Janice Ellis - (619) 236-7705
Jane M. Boardman - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

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

* ITEM-117: Settlement of Property Damage Claims of Boat Depot, Inc. & SMCM Partners GP.

(District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-630) ADOPTED AS RESOLUTION R-302267

A Resolution approved by the City Council in Closed Session on Tuesday, November 28, 2006, by the following vote: Council President Peters-yea; Faulconer-yea; Atkins-yea; Council President Pro Tem Young-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Hueso-yea;

Authorizing the Mayor, or his designee, to pay the total sum of \$475,000 in the settlement of each and every claim against the City of San Diego, its agents and employees, in Superior Court Case No. GIC 846472, Boat Depot, Inc. and SMCM Partners, GP v. City of San Diego, resulting from the storm drain related property damage claims of Boat Depot, Inc. and SMCM Partners, GP;

Authorizing the City Auditor and Comptroller to issue two separate checks, the first check in the amount of \$420,000, made payable to SMCM Partners, GP and its attorney of record, Michael A. Gardiner; and the second check in the amount of \$55,000, made payable to Boat Depot, Inc. and its attorney of record, Mark S. Bagula, in full settlement of the lawsuit and of all claims;

Declaring that said funds are to be payable from Fund No. 81140, Public Liability Reserve Fund.

STAFF SUPPORTING INFORMATION:

The proposed settlement would resolve all claims arising from the storm drain flooding.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Public Liability Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item was considered in Closed Session on November 28, 2006, the City Council approved the settlement amount of \$475,000. City Council voted 8 to 0 to approve. The motion was made by Councilmember Madaffer with a second by Councilmember Faulconer.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

N/A.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

N/A.

Byche/Goldstone

Aud. Certs. 2700348 and 2700349.

Staff: Leroy Hostetler - (619) 236-6619
William S. Donnell – Senior Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

* ITEM-118: Dr. Delores Jacobs Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-638) ADOPTED AS RESOLUTION R-302268

Recognizing Dr. Delores Jacobs and commending her for her commitment to equality for everyone;

Proclaiming December 2, 2006, to be “Dr. Delores Jacobs Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

* ITEM-119: Asian Pacific Islander Community AIDS Project (APICAP) Day.

COUNCILMEMBER ATKINS’ RECOMMENDATION:

Adopt the following resolution:

(R-2007-551) ADOPTED AS RESOLUTION R-302269

Recognizing the Asian Pacific Islander Community AIDS Project and commending it for its service to the APIA community and all of San Diego;

Proclaiming November 18, 2006, to be “Asian Pacific Islander AIDS Project Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

* ITEM-120: World AIDS Day.

**COUNCILMEMBER ATKINS' AND COUNCILMEMBER FRYE'S
RECOMMENDATION:**

Adopt the following resolution:

(R-2007-552) ADOPTED AS RESOLUTION R-302270

Recognizing the Neighborhood Funding Network and commending it for hosting the Sixth Annual World AIDS Day Conference;

Proclaiming December 1, 2006, to be "World AIDS Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

* ITEM-121: Mira Mesa Senior Center Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-606) ADOPTED AS RESOLUTION R-302271

Proclaiming November 22, 2006, to be "Mira Mesa Senior Center Day" in the City of San Diego in celebration of its 20th anniversary.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

* ITEM-122: Elissa Barber Day.

COUNCILMEMBER MAIENSCHIEIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-637) ADOPTED AS RESOLUTION R-302272

Proclaiming December 13, 2006, as "Elissa Barber Day" in the City of San Diego in recognition of her many outstanding contributions and service to San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

* ITEM-123: Bill Bernard Day.

COUNCILMEMBER MAIENSCHIEIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-636) ADOPTED AS RESOLUTION R-302273

Proclaiming December 13, 2006, as "Bill Bernard Day" in the City of San Diego in recognition of his many outstanding contributions and service to San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

* ITEM-124: Annette Eros Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-639) ADOPTED AS RESOLUTION R-302274

Commending and thanking Annette Eros for her determination in carrying out the goals of Ronald McDonald House Charities and her dedication to youth and families in the City of San Diego;

Proclaiming December 7, 2006, to be "Annette Eros Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

- * ITEM-125: 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-2007-49) ADOPTED AS RESOLUTION R-302275

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

FILE LOCATION: GEN'L – State of Emergency Regarding the Discharge
of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.

- * ITEM-126: 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-2007-78) ADOPTED AS RESOLUTION R-302276

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

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:08 a.m.)

CONSENT 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.



ITEM-330: Kroll Remediation Status Report Number 3 and Related Action.

(See memorandum from Mayor Sanders dated 11/22/2006.)

(Continued from the meeting of December 6, 2006, Item 601, at the request of Council President Peters, to consider until Monitor is appointed.)

MAYOR SANDERS' RECOMMENDATION:

Take the following actions:

RETURNED TO THE MAYOR

Hear third informational update report on the Kroll remediation;

Direct the City Attorney to prepare an ordinance amending the Municipal Code¹ consistent with the following changes:

- The Chief Financial Officer will serve as the Chair of the revised Disclosure Practices Working Group (DPWG).
- Membership in the DPWG will consist of the following five official voting members: Chief Operating Officer, Chief Financial Officer, City Attorney, Auditor General, and Independent Budget Analyst (or designees). Outside disclosure counsel serves as an ex-officio member.
- No DPWG committee member (including the Chair) can prevent any other committee member from placing an item on the agenda.

¹ San Diego Municipal Code, Chapter 2: Government, Article 2, Administrative Code, Division 41: Securities Disclosure

FILE LOCATION: MEET

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

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-331: Two Actions Related to Authorization of Contract for Independent Oversight Monitoring Services.

(Citywide.)

MAYOR SANDERS' RECOMMENDATION:

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

Subitem-A: (O-2007-87) CONTINUED TO TUESDAY, JANUARY 16, 2007

Introduction of an ordinance adopting the annual budget for the Fiscal Year 2006-2007 and appropriating the necessary money to operate the City of San Diego for said Fiscal Year, by authorizing the City Auditor and Comptroller to appropriate and to transfer up to \$1,417,400 from the city's General Fund Unallocated Reserve to the Public Liability Fund to pay for independent consultant services to be rendered by Edwards Angell Palmer & Dodge LLP in connection with Securities and Exchange Commission cease-and-desist order entered against the city.

Subitem-B: (R-2007-692) CONTINUED TO TUESDAY, JANUARY 16, 2007

Authorizing the Mayor to enter into an Agreement with Edwards Angell Palmer & Dodge for Independent Consulting Services.

SUPPORTING INFORMATION:

On November 14, 2006 the Securities and Exchange Commission (SEC) entered a Cease-And-Desist Order which requires the City of San Diego to engage an "Independent Consultant" for 3 years. The SEC order requires this Independent Consultant (Monitor) to do the following:

- Review and make recommendations regarding the City's policies, procedures and internal controls with respect to disclosures made in bond offerings, financial statements, and rating agency presentations; to review and make recommendations regarding the hiring of internal and external personnel for disclosure functions; and to review and make recommendations for training provided to City personnel, including the Offices of the Mayor, City Council Members, City Attorney, and City Auditor & Comptroller.
- Make recommendations concerning these policies, procedures and internal controls with a view to assuring compliance with disclosure obligations.
- In years 2 and 3, assess whether the City is complying with its policies, procedures and internal controls, whether the City has adopted any of the Monitor's recommendations from prior years and whether such recommendations were effective.
- Within 120 days after the date of engagement, issue a report describing the review performed and the conclusions reached and include any recommendations deemed necessary to make the policies, procedures and internal controls adequate and address the deficiencies identified in Section III.D. of the SEC Order. Similar reports will be required to be issued within 60 days of the anniversary of the engagement in years two and three. These reports will be presented to both the City and the SEC.

The Kroll Report recommended the retention of such monitor in its report dated August 8, 2006. Based on the Kroll recommendation, the Mayor's Office began initial interviews with potential candidates in September of 2006. Members of the City Council, the City Attorney's Office and the Independent Budget Analyst participated in this process. More than 15 candidates were reviewed and 4 candidates, each of whom the City believed would be acceptable to the SEC, received personal interviews.

As a result of this interview process, the Mayor recommends the authorization of the contract for Independent Consultant/Monitoring services with Mr. Stanley Keller, a partner in the law firm of Edwards, Angell, Palmer & Dodge, LLP. Mr. Keller's resume and the resume of his law firm are attached. The contract will expire on March 1, 2010. The total contract amount is not to exceed \$4,000,000.

FISCAL CONSIDERATIONS:

This item authorizes funding in the amount of \$2,000,000 to provide the Independent Consultant/Monitoring services through the end of Fiscal Year 2007. These costs will be allocated on a full time equivalent position (FTE) basis consistent with the Council Policy, and as detailed in the attached. This item also authorizes the City Auditor and Comptroller to appropriate and to transfer up to \$1,417,400 from the Unallocated Reserve to the Public Liability Fund to pay the General Fund portion of this Fiscal Year 2007 expenditure. After this transfer the Unallocated Reserve balance will be \$40,236,233.

Dubick/Goldstone

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 6:48 p.m. – 7:06 p.m.;
7:11 p.m. – 7:15 p.m.)

MOTION BY FRYE TO CONTINUE TO TUESDAY, JANUARY 16, 2007, FOR FURTHER REVIEW. 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: Two actions related to Amending the Permanent Rules of Council to Establish an Audit Committee and Amending the 2007 Legislative Calendar to Add Audit Committee Meetings.

(See the Audit Committee Guide for Public Sector Entities.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the resolutions in Subitems B and C:

Subitem-A:

This subitem has been removed.

Subitem-B: (R-2007-664 Cor. Copy) ADOPTED AS RESOLUTION R-302279

Adopting the following temporary rules to be known as “San Diego City Council Temporary Rules Establishing the Audit Committee”:

Rule 6.1 Creation of Standing Committees (former Rule 10) [new text underlined]

The Council hereby creates six standing committees as follows:

- a) Committee on Rules, Open Government and Intergovernmental Relations (herein referred to as the "Rules Committee")
- b) Committee on Land Use and Housing
- c) Committee on Natural Resources and Culture
- d) Committee on Public Safety and Neighborhood Services
- e) Committee on Budget and Finance
- f) Audit Committee

Rule 6.11.6 Audit Committee [all new text]

- a) The Audit Committee shall be composed of three voting Councilmembers.
- b) The Committee shall have legislative oversight responsibilities for the City’s audit work.
- c) The Committee shall also have the responsibility to hold hearings on matters referred to it and to act upon them as soon as practicable.

Declaring the above temporary rules shall be effective from passage and continuing until such time that the Permanent Rules of the City Council are amended to incorporate the subject matter addressed in the temporary rules;

Declaring the Audit Committee shall develop and recommend a Charter containing the duties and responsibilities of the Committee for further discussion and approval by the City Council within 90 days.

Subitem-C: (R-2007-665) ADOPTED AS RESOLUTION R-302280

Amending the schedule of meetings for the City Council and Standing Committees of the City Council for the period January 1, 2007, through December 31, 2007, a copy of which is on file in the Office of the City Clerk as Document No. RR-302134, to add Audit Committee Meetings to the calendar on January 29th, February 26th, March 26th, April 30th, May 21st, June 25th, July 30th, September 24th, October 29th, and November 19th from 9:00 a.m. to 12:00 p.m.;

Directing the City Clerk to post and publish, as necessary, the notice of such meetings with the date, time, and location thereof and make necessary preparations and arrangements therefore.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:21 p.m. – 6:35 p.m.)

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



ITEM-333: Appointments of City Council Audit Committee Assignments for Calendar Year 2007.

(See memorandum from Council President Peters dated 12/22/2006. Citywide.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-663 Cor. Copy) ADOPTED AS AMENDED AS RESOLUTION
R-302281

Council confirmation of the following appointments by the Council President to serve as Chair, Vice-Chair, and committee member of the Audit Committee for terms commencing upon confirmation, lasting until January 1, 2008, 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:

CHAIR: Councilmember Kevin Faulconer

VICE CHAIR: Councilmember Donna Frye

MEMBER: Council President Pro Tem Tony Young

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:24 p.m. – 6:33 p.m.;
6:35 p.m. – 6:47 p.m.)

Motion by Atkins to suspend the Permanent Rules of Council for the purpose of offering nominations from the floor. Second by Frye. Failed. Yeas-3, 4, 6. Nays-1, 2, 5, 7, 8.

MOTION BY FAULCONER TO ADOPT THE RESOLUTION AS AMENDED TO CONFIRM THE FOLLOWING APPOINTMENTS OF THE CITY COUNCIL AUDIT COMMITTEE: COUNCIL MEMBER FAULCONER SHALL SERVE AS CHAIR; COUNCIL PRESIDENT PRO TEM YOUNG SHALL SERVE AS VICE-CHAIR; AND COUNCIL PRESIDENT PETERS WILL COME BACK TO COUNCIL WITH A NOMINATION TO SERVE AS MEMBER. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



[ITEM-334:](#) El Cajon Boulevard Medians – Crossroads Redevelopment Project.

(See Redevelopment Agency Report No. RA-07-04/RTC-07-003. College and Eastern Community Areas. District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-536) ADOPTED AS RESOLUTION R-302282

Finding and determining that El Cajon Boulevard Median Improvements is of benefit to the Crossroads Redevelopment Project Area; no other reasonable means of financing the improvements are available to the community; that the contribution of \$340,000 from the Crossroads Redevelopment Project Area will assist in eliminating one or more blighting conditions inside the Project Area and is consistent with the Implementation Plan adopted for the Project by the Agency in May 2003, on file as Document No. O-19174 in the Office of the Secretary to the Agency pursuant to California Health and Safety Code Section 33490;

Authorizing the City Auditor and Comptroller to set up a new special interest bearing fund, the College Heights Enhanced Maintenance Assessment District CIP fund;

Authorizing the City Auditor and Comptroller to transfer and expend \$45,000 from Fund 70266 College Heights Maintenance Assessment District to the new special interest bearing fund, the College Heights Enhanced Maintenance Assessment District CIP fund;

Amending and increasing the Fiscal Year 2007 Capital Improvement Program Budget No. 39-324.0 to include an additional contribution from the Agency in the amount of \$340,000 and a contribution from the College Heights Enhanced Maintenance Assessment District in the amount of \$45,000;

Declaring the Council accept, appropriate and expend the funds of \$340,000 from the Agency and funds of \$45,000 from the College Heights Enhanced Maintenance Assessment District for the El Cajon Boulevard Median Improvements (CIP-39-234.0);

Declaring this activity is categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15301, and exempt from NEPA pursuant to 24 CFR Part 58, Section 58.34(b).

STAFF SUPPORTING INFORMATION:

The engineer's estimate was prepared in June 2006, based on previous bids for similar projects and with input from the Landscape Architect designer. However, the actual bids received were significantly higher (reflecting a volatile bidding environment). The cost for installing the irrigation system and plant material is higher than anticipated. Agency and City staffs believe that re-advertising the project would increase the cost of the project and delay the implementation of the project. The funding gap which is \$385,000 will be dealt with by an additional contribution of \$340,000 of Crossroads Project tax increment funds and \$45,000 of funds from the College Heights MAD.

California Community Redevelopment Law requires that certain findings be made by the Redevelopment Agency and the City Council prior to the expenditure of Agency funds for public improvements. The replacement of substandard median curbs and the installation of landscaping and irrigation will assist in the elimination of blighting conditions inside the Project Area, and that the medians and landscaping are consistent with the Redevelopment Plan and the Five-Year Implementation Plan. The landscaping will be maintained by the College Heights MAD.

The contract for this project received bids on October 31, 2006. The apparent low bid contractor (3-D Enterprises, Inc.) will be authorized to proceed with the base bid in early January 2007 and the pre-construction meeting will be later in January 2007, after the notice to proceed is issued. Work will begin in early February 2007 and completed in late July 2007. If the additional work in the additive alternatives (landscape and irrigation, community signs, sign illumination) is authorized (upon receipt of additional funds), the contract will be extended an additional 64 working days, completing in October of 2007.

FISCAL CONSIDERATIONS:

Funds in the amount of \$340,000 are available from tax increment within the Crossroads Redevelopment Project Area, and \$45,000 are available from assessments within the College Heights MAD for this project. The total cost of this project is anticipated to be \$2,410,920. The funding consists of \$2,090,000 in tax increment funds, \$60,000 of Water Department funds, \$200,000 of TransNet funds for a traffic signal, \$45,000 of College Heights MAD funds and \$15,920 of County of San Diego funds for the community signs.

PREVIOUS AGENCY and/or COMMITTEE ACTION:

The Redevelopment Agency provided \$1,750,000 of Tax Increment funds on September 14, 2004 (R-03824). The City Council accepted the Redevelopment Agency funds on September 14, 2004 (R-299645) and authorized the construction of this project on August 8, 2006 (R-301825).

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS:

On November 8, 2006, the Crossroads PAC recommended that the Redevelopment Agency contribute an additional \$340,000 of tax increment funds to the City for this critical community improvement. On November 15, 2006, the College Heights MAD allocated \$45,000 for the community signs.

KEY STAKEHOLDERS and PROJECT IMPACTS:

College Heights MAD, College Area BID, College Area Community Council, Eastern Area Community Planning Committee, and Crossroads PAC. The apparent low bid contractor was 3-D Enterprises, Inc.

Ostrye/Anderson

Aud. Cert. 2700440.

Staff: Tracy Reed - (619) 533-7519
Eunice C. Chan - Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda of January 9, 2007, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 7:11 p.m. – 7:11 p.m.)

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



ITEM-335: Rainier Place.

Matter of approving, conditionally approving, modifying or denying a Rezone from RM-1-1 to RM-3-7; Public Right of Way Vacation to vacate a portion of Rainier Avenue; a tentative Map application to create 22 residential condominium units (New Construction); a waiver to underground the existing overhead utilities and a Planned Development Permit (PDP) for setbacks on a 0.643 acre site, within the Navajo Community Plan area located at 4535-4549 Rainier Avenue.

(Rezone/Public Right of Way Vacation No. 236107/Tentative Map No. 323037/Waiver to Underground the Existing Overhead Utilities/Planned Development Permit No. 278782. Navajo Community Plan Area. District 7.)

STAFF'S RECOMMENDATION:

Adopt the resolutions in Subitems A, C, and D; and introduce the ordinance in Subitem B:

Subitem-A: (R-2007-539) ADOPTED AS RESOLUTION R-302283

Adoption of a Resolution certifying that information contained in Negative Declaration No. 75711; 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 said 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, tentative map with public right-of-way vacation and planned development permit for Rainier Place project;

That the Council finds, based upon the Initial Study and any comments received, that there is no substantial evidence that the project will have a significant effect on the environment and therefore the Negative Declaration is approved;

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-B: (O-2007-48) INTRODUCED, TO BE ADOPTED ON TUESDAY, JANUARY 23, 2007

Introduction of an Ordinance changing 0.688 acres located at 4535-4549 Rainier Avenue, within the Navajo Community Plan Area, in the City of San Diego, California, from the RM-1-1 to RM-3-7 Zone, as defined by San Diego Municipal Code Section 131.0406; and Repealing Ordinance No. O-7226 adopted date November 27, 1956, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

Subitem-C: (R-2007-540) ADOPTED AS RESOLUTION R-302284

Adoption of a Resolution certifying findings with respect to Tentative Map No. 323037 and Public Right-of-Way Vacation No. 236107;

That Tentative Map No. 323037, and Public Right-of-Way Vacation No. 236107, is hereby granted to Rainier Place, L.P., Applicant/Subdivider, and SB&O Inc., Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

Subitem-D: (R-2007-541) ADOPTED AS RESOLUTION R-302285

Adoption of a Resolution certifying findings with respect to Planned Development Permit No. 278782;

That Planned Development Permit No. 278782 is granted to Rainier Place, L.P., a California Limited Partnership, Owner/Permittee, under the terms and conditions set forth in the permit which is made a part of this resolution.

OTHER RECOMMENDATIONS:

Planning Commission on October 5, 2006, voted 6-0 to recommend approval; no opposition.

Ayes: Otsuji, Garcia, Schultz, Griswold, Ontai, Naslund
Not Present: Chase

STAFF SUPPORTING INFORMATION:

The project proposes to demolish 4 existing single-family homes and construct a 22 townhome condominium complex (total of 42,056-square-feet) on a 0.688-acre site located at 4535-4549 Rainier Avenue within the Navajo Community Plan area. The proposed project requires a rezone from RM-1-1, low-density multi-family residential zone, to RM-3-7, medium-density multi-family residential, a Planned Development Permit (PDP), and a Tentative Map with an Underground Waiver and Public-Right-of-Way Vacation. All units would have attached two-car garages.

The proposed Rezone from RM-1-1 to RM-3-7 would be consistent with the allowed higher residential density pursuant to the Navajo Community Plan, and with the adjacent sites to the west and east. Access to the project area would move egress and ingress from Rainier Avenue to the alley.

Planned Development Permit

A Planned Development Permit (PDP) has been requested for deviations to the minimum side-yard setbacks. The applicant is requesting a deviation for a 6'-9" side-yard setback on the first floor stepping back to 9'-9" for the second and third stories where 20' would be required. The existing multi-family structures surrounding the subject property are built with minimum side-yard setbacks of 6-feet or less. The request for a deviation for the side-yard setback would be consistent with the existing surrounding neighborhood development pattern. The proposed redevelopment of the site with a multi-family residential project would implement the Navajo Community Plan recommendations for developing a wide range of residential densities in the community.

Tentative Map with a Public Right-of-Way Vacation

A Tentative Map is required for each subdivision of land. The applicant has requested a waiver from the requirement to underground the existing overhead utilities within the abutting public rights of way. Council Policy 600-25, *Underground Conversion of Utility Lines at Developer Expense* permits a waiver if, *"The conversion involves a short span of overhead facility (less than a full block in length) and it has been determined that such conversion is not a part of a continuing effort to accomplish a total undergrounding within a specific street or area"*. The applicant would be required to underground any new service run to any new or proposed structures within the subdivision.

The proposed Public Right-of-Way Vacation is ten-feet by approximately two-hundred feet along Rainier Avenue encompassing only the area fronting the project site. The proposed vacation would close three curb cuts, moving the entrance to the project from Rainier Avenue to the alley and would bring the property line and sidewalks into conformance with the abutting properties. There would be no reduction in the paved width of Rainier Avenue.

FISCAL CONSIDERATIONS:

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

PREVIOUS ACTION:

On October 5, 2006, the Planning Commission voted 6-0-0 to recommend approval of the project as outlined in Report No. 06-233.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On April 17, 2006, the Navajo Community Planning Group voted 16-0-0 to recommend approval of the project with no conditions.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The Rainier Place LP; - Mark Freed, Danielle Drosch, Larry Nakomura, Jasmine Forman, Jeffrey T. Healey, Jessica B. Healey, City of San Diego and the Navajo community.

Marcela Escobar-Eck/Waring/JR

LEGAL DESCRIPTION:

The project site is within the Navajo Community Plan area and Council District 7. APN 458-531-04, 05, and 06. Legal Description: Lots 9 through 16 in Block 16 of Grantville and Out Lots in the City of San Diego, County of San Diego, State of California according to Map Thereof No. 776. Applicant: Healy Custom Construction.

Staff: Jeff Robles – (619) 446-5225
Shannon M. Thomas – Deputy City Attorney

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

FILE LOCATION: SUBITEMS A & D: MEET
SUBITEM B: NONE
SUBITEM C: DEED F-10034

COUNCIL ACTION: (Time duration: 7:11 p.m. – 7:11 p.m.)

MOTION BY MADAFFER TO ADOPT THE RESOLUTIONS IN SUBITEMS A, C, AND D; AND INTRODUCE THE ORDINANCE IN SUBITEM B. 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-336: Navy Broadway Complex.

Matter of the Appeals of the Environmental Determination by the City of San Diego Development Services Department regarding the Navy Broadway Complex project, and the Centre City Development Corporation's Adoption of such Determination, by 1) Ian Trowbridge as an individual and the Broadway Complex Coalition and 2) Katheryn Rhodes and Conrad Hartsell. The appeals consist of challenges to the Determination that no further environmental review is required for the project under CEQA.

The Navy Broadway Complex is a nearly 15-acre site bounded by Broadway to the north, Pacific Highway to the east and Harbor Drive to the West and south (E, F, and G streets, which are currently closed to public use, pass through the site). The property is owned by the U.S. Navy and is the subject of a 1992 Development Agreement with the City of San Diego, which provides for allowable development on the property of 3.25 million square feet of development including up to 1,650,000 square feet of office uses (including a new Navy Administration Building), 1,220,000 square feet of hotel uses, 25,000 square feet of “ independent” retail uses (i.e., not associated with primary hotel or office uses), 55,000 square feet of public attraction (e.g., museum or similar) space, and a 1.9 acre Public Park at the foot of Broadway.

(See Report to the City Council No. 07-101. Centre City Community Plan Area. District 2.)

STAFF'S RECOMMENDATION:

Take one of the following actions:

(R-2007-) ADOPTED AS RESOLUTIONS R-302286 AND R-302295

Deny the appeals as to both the action taken by the Development Services Department (Section 21166 Analysis) and the action taken by the Centre City Development Corporation (CEQA Resolution).

Direct the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

or NOT SELECTED

Grant the appeals challenging both the action taken by the Development Services Department (Section 21166 Analysis) and the action taken by the Centre City Development Corporation (CEQA Resolution) and direct staff to conduct and complete the necessary additional environmental review for the proposed Navy Broadway Complex project in compliance with CEQA.

Direct the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

or NOT SELECTED

Deny one appeal (specify which one) as to both the action taken by the Development Services Department (Section 21166 Analysis) and the action taken by the Centre City Development Corporation (CEQA Resolution) and grant the other appeal (specify which one) as to both the actions taken by DSD and CCDC and direct staff to conduct and complete the necessary additional environmental review for the proposed Navy Broadway Complex project in compliance with CEQA.

Direct the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION: Uphold the Determination of the Development Services Department (DSD) and Centre City Development Corporation (CCDC) that no additional environmental review is necessary for the proposed Navy Broadway Complex (NBC) project pursuant Section 21166 of the California Environmental Quality Act (CEQA).

STAFF RECOMMENDATION: Deny the Appeals and uphold the environmental determination.

EXECUTIVE SUMMARY:

DSD was asked to conduct a CEQA evaluation on the proposed NBC project for CCDC pursuant to Section 21166 of CEQA that compares the proposed project with the project described in the 1990 EIR/EIS that was certified by the City Council on October 20, 1992. The review was limited to consideration of CEQA issues associated with the project and previously certified applicable environmental documents.

After consideration of the project, the 1990 EIR/EIS, and several applicable certified environmental documents for other projects in the vicinity of the NBC project, DSD concluded that the NBC project was adequately addressed in these prior environmental documents and that no additional environmental review was required. DSD's CEQA Section 21166 evaluation is summarized in a memorandum dated October 19, 2006. On October 25, 2006, CCDC adopted DSD's evaluation.

Two appeals were filed on the environmental determination made by DSD and adopted by CCDC. Both appeals raise several issues, challenging DSD's conclusion that none of the three conditions in CEQA Section 21166 exist that would require the preparation of a subsequent or supplemental EIR. CEQA Section 21166 states that when an EIR was prepared for a project, no subsequent or supplemental EIR shall be required unless there are substantial changes in the project, substantial changes in the circumstances under which the project is considered, or new information available that was not known and could not have been known at the time the EIR was certified. The Staff report discusses each of the appeal issues raised and provides a response, focusing on how the issue relates to the CEQA Section 21166 evaluation.

After its evaluation, DSD concluded that the 1990 EIR/EIS prepared for the NBC project and the subsequent environmental documents prepared for other projects in the vicinity, which were identified in DSD's October 19, 2006, CEQA Section 21166, evaluation adequately address the potential environmental issues associated with the current version of the NBC project. None of the conditions outlined in CEQA Section 21166 that would require additional environmental review for the NBC project have been met. Therefore, no additional environmental review is required. It is also DSD staff's professional opinion that the information provided by the appellants does not rise to the level of substantial evidence supporting a conclusion that the project may result in new or substantially more severe significant impacts beyond those previously disclosed.

FISCAL CONSIDERATIONS:

Costs associated with processing these appeals are being paid for by CCDC. If the appeal is granted, and additional environmental review is required, the costs would be paid for by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On October 20, 1992, the City Council certified the EIR/EIS for the original NBC project. In addition, on October 25, 2006, CCDC adopted a resolution accepting the CEQA evaluation by DSD, dated October 19, 2006.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Community participation occurred with the processing of the 1990 EIR/EIS, which was certified in 1992 at a public hearing. No discretionary action or environmental document is being processed with the proposed NBC project. CEQA does not require public review with an evaluation conducted pursuant to Section 21166. The October 25, 2006, CCDC meeting where CCDC adopted DSD's CEQA evaluation was a public meeting and testimony was taken on the topic.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The two appellants are: 1) Ian Trowbridge and the Broadway Complex Coalition and 2) Katheryn Rhodes and Conrad Hartsell, M.D.

Waring/Escobar-Eck

Staff: Bob Manis, City of San Diego Development Services Department –
(619) 446-5354
Eli Sanchez, Centre City Development Corporation – (619) 533-7121

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 6:06 p.m.)

Testimony in opposition by Ian Trowbridge, Katheryn Rhodes, Jarvis Ross, Don Wood, Mignon Scherer, Molly Rhodes, Graham Forbes, Lorena Gonzalez, John McNab, Ron Boshun, Murtaza Baxamusa, Charles Kaminski, Diane Coombs, Bruce Coons, Cory Briggs and Jeanette Hartman.

Testimony in favor by Julie Meerwright, Steven Strauss, Peter Hekman, Scott Alevy, Gary Smith, Perry Dealy, Richard Gibbons, Nancy Dix, Kenneth Slaght, Jim Schmidt, Mike Allen, Joe Martinez and Tim Cowden.

MOTION BY FAULCONER TO ADOPT THE ITEM TO: 1) DENY THE APPEALS; 2) UPHOLD ENVIRONMENTAL DETERMINATION; 3) MAKE AN EXPRESS FINDING THAT THE INFORMATION SUBMITTED BY THE APPELLANTS DOES NOT CONSTITUTE SUBSTANTIAL EVIDENCE OF SUBSTANTIAL CHANGES IN THE PROJECT OR THE CIRCUMSTANCES UNDER WHICH THE PROJECT IS UNDERTAKEN, OR NEW INFORMATION OF SUBSTANTIAL IMPORTANCE CONCERNING THE PROJECT, THAT WOULD SUGGEST THE PROJECT WILL RESULT IN NEW SIGNIFICANT ENVIRONMENTAL EFFECTS OR A SUBSTANTIAL INCREASE IN THE SEVERITY OF PREVIOUSLY IDENTIFIED SIGNIFICANT EFFECTS; AND 4) DIRECT THE CITY ATTORNEY TO PREPARE THE APPROPRIATE RESOLUTIONS ACCORDING TO SECTION 40 OF THE CITY CHARTER. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-nay, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-nay.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 7:15 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 7:15 p.m.)