

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, JUNE 18, 2007
AT 2:00 P.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 2:04 p.m. Council President Peters recessed the meeting at 3:04 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:12 p.m. with Council Member Madaffer not present. The meeting was adjourned by Council President Peters at 4:04 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-Excused by R-302697; no reason given
 - (8) Council Member Hueso-present
- Clerk-Maland (dlc)

FILE LOCATION: MINUTES



ITEM-1:

ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-not present
- (8) Council Member Hueso-present

FILE LOCATION:

MINUTES



ITEM-10:

INVOCATION

Invocation was given by Ray Regino of Horizon Christian Fellowship.

FILE LOCATION:

MINUTES



ITEM-20:

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Maienschien.

FILE LOCATION:

MINUTES

CLOSED SESSION ITEMS:

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

**CS-1 *Friends of Rose Canyon et al v. City of San Diego*
SDSC No. GIC 874140 and**

***Las Palmas Condominium Owners' Association et al v. City of San Diego*
SDSC No. GIC 872000**

REFERRED TO CLOSED SESSION OF TUESDAY, JUNE 19, 2007

DCA Assigned: C. Brock

The above lawsuits arises from the City Council's certification of the Environmental Impact Report ("EIR") for the University City North/South Transpiration Corridor Study, Project No. 27445 ("Project") and the Council's legislative decision to approve the implementation of the Regents Road Bridge Alternative and initiate an amendment to the University City Community Plan. The City Council adopted clarifying resolution R-302497 in March 2007. As a result, petitioners have submitted a final settlement proposal for consideration by the City Council. The City Attorney's office and outside counsel, Kevin P. Sullivan, Esq., will discuss case settlement.

FILE LOCATION: AGENDA

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

Council President Peters closed the hearing.

**CS-2 *Valerie O'Sullivan v. City of San Diego*
San Diego Superior Court Case No. GIC 826918**

REFERRED TO CLOSED SESSION OF TUESDAY, JUNE 19, 2007

DCA Assigned: G. Schaefer

This matter involves a lawsuit filed against the City of San Diego over the joint use by humans and seals of Children's Pool Beach in La Jolla. Following a court trial, a Superior Court Judge rendered a judgment against the City and ordered the City to dredge Children's Pool Beach and awarded attorneys' fees and costs in favor of the Plaintiff. The City has a pending appeal of the judgment and award before the Court of Appeal. Oral argument in the appeal is scheduled for July 11, 2007. The City Attorney's Office needs to update the Mayor and Council regarding the status of the litigation and pending appeal.

FILE LOCATION: AGENDA

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

Council President Peters closed the hearing.

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

**CS-3 Claim for reimbursement by Maintenance Assessment District
Claim No. LP0700101739**

REFERRED TO CLOSED SESSION OF TUESDAY, JUNE 19, 2007

DCA Assigned: J. Cordileone

This matter involves a claim for money made by the North Bay Association of San Diego regarding the Midway Business Improvement District. In closed session, the City Attorney will brief the City Council on the status of the matter.

FILE LOCATION: AGENDA

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

Council President Peters closed the hearing.



[ITEM-150](#): Fiscal Year 2007 Year-End Budget Adjustments.

(See Report to the City Council No. 07-105.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2007-159 Cor. Copy) INTRODUCED AS AMENDED, TO BE
ADOPTED ON MONDAY, JUNE 25, 2007

Introduction of an Ordinance 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," to make Fiscal Year 2007 year-end budget adjustments and to authorize the City Auditor and Comptroller to make such other transfers as necessary to balance each department and fund.

BUDGET AND FINANCE COMMITTEE'S RECOMMENDATION:

On 6/6/2007, Budget voted 5 to 0 to forward without recommendation to the full City Council the Mayor's requested actions regarding Fiscal Year 2007 Year-End Budget Adjustments to allow time for analysis by the Independent Budget Analyst and further discussion by Councilmembers. (Councilmembers Peters, Faulconer, Atkins, Frye, and Madaffer voted yea.)

SUPPORTING INFORMATION:

This report discusses the fiscal status of City departments requiring budget adjustments and requests the City Council to authorize the City Auditor and Comptroller to balance each department and fund as necessary. The report summarizes the projected year-end revenues and expenditures for the General Fund, projects the status of General Fund reserves and discusses the requested budget adjustments in each affected department. In addition, the report seeks authorization to carryover certain fiscal year 2007 budget.

FISCAL CONSIDERATIONS:

- General Fund expenditure appropriations will increase by approximately \$4.9 million, the revised revenue budget will increase by approximately \$1.7 million and the balance of \$3.2 million will be funded from the General Fund unallocated reserve.
- Mission Bay Improvement Fund and Regional Park Improvement Fund revenue and expenditure appropriations will increase by approximately \$850,000 each.

- Central Stores Internal Service Fund revenue and expenditure appropriations will increase by

- approximately \$600,000.
- Equipment Operating Fund expenditure appropriations will increase by approximately \$1.9 million to be funded by a transfer from the Equipment Replacement Fund.
- QUALCOMM Stadium expenditure appropriations will increase by approximately \$150,000, the revenue budget will increase by \$112,000 and the balance of \$38,000 will be funded from the QUALCOMM Stadium Fund balance.
- The General Fund will carryover approximately \$687,000 to the Infrastructure Improvement Fund, \$1,035,000 to the allocated reserve for Park and Recreation projects, and \$70,000 to the Capital Improvements Program.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This report will be presented to the Budget and Finance Committee on June 6, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: None.

Lewis/Goldstone

Aud. Cert. 2700810.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:08 p.m. – 2:47 p.m.)

MOTION BY FAULCONER TO INTRODUCE THE ORDINANCE AS AMENDED TO REFLECT THAT THE \$250,000 WOULD NOT BE ALLOCATED TO PARK AND RECREATION, BUT WOULD BE PLACED IN THE GENERAL FUND RESERVES. IN ADDITION, ANOTHER \$250,000 WOULD BE ALLOCATED FROM THE MISSION BAY REGIONAL PARKS FUND TO THE SUNSET CLIFFS NATURAL PARK FOR A FUTURE CAPITAL IMPROVEMENTS PROGRAM. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.



ITEM-151: Water, Sewer Monthly Billing Report.

(See Reports to the City Council No. 07-111 and 07-071; and Executive Summary Sheet from Water Department on Stormdrain Monthly Billing Report. Citywide.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2007-155) INTRODUCED WITH DIRECTION, TO BE ADOPTED
ON MONDAY, JULY 9, 2007

Introduction of an Ordinance directing the Mayor, or his representative, to implement tier-rate adjustments, as described in Report to the City Council No. 07-071, every two months instead of every six months, by November of 2007 and continuing thereafter until the City returns to bi-monthly billing for water and sewer services;

Rescinding the authority to adopt monthly water and sewer billing in Resolution No. R-297388, and directing the Mayor, or his representative, to return to bi-monthly billing for water and sewer services by April of 2008, except for those customer accounts which the City reads the water meters on a monthly basis or where a different billing frequency is established by contract;

Declaring that this activity is not subject to the California Environmental Quality Act because it is not a "project," pursuant to Sections 15378 and 15060(c)(3) of the State CEQA Guidelines, nor will the activity result in a direct or reasonably foreseeable indirect physical change in the environment pursuant to Section 15060(c)(2).

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 11/15/2006, NR&C voted 3 to 0 to forward this item to full City Council for action to return to bi-monthly billings for Water, Sewer and Storm Drain. (Councilmembers Faulconer, Frye, and Hueso voted yea. Councilmember Atkins not present.)

SUPPORTING INFORMATION:

On April 30, 2002, as part of the approval of water rate increases proposed by the City Manager, the Mayor and City Council directed the Water Department to begin billing all water and sewer

customers on a monthly basis by December 2003. The Department was instructed to convert to monthly billing without adding staff. After reviewing the capabilities of the City's current billing system, a number of alternatives were considered. The alternative selected was to provide an estimate of water consumption for every other bill. Monthly billing began on September 2, 2003. There were one-time conversion costs of \$1.3 million, with additional annual operating costs of \$570,000. No additional revenue was generated. Under the monthly billing system, a customer receives a bill based upon actual consumption, followed by an estimated bill the next month. The following month, each customer's meter is again read and the consumption is verified. The department has continued to review and adjust all single-family dwelling accounts every six months since March 2005 in order to offset any additional charges that may have resulted from the shift from bi-monthly to monthly billing. During the first two years of implementation, the department did not experience the expected decrease in accounts being shut-off due to delinquency.

The department continues to review monthly billing practices on a regular basis. We have received information from SDDPC concerning the costs to revert back to bi-monthly billing and to adjust all accounts every two months rather than six months as described above.

The cost estimate to revert back to billing on a bi-monthly basis is from \$111,800 to \$167,700. This would be a one time expense paid to SDDPC. This option would also reduce expenses by approximately \$622,000 annually. The costs and savings would be shared equally by the Water and Wastewater Funds. We estimate that this option could be implemented in the March/April 2008 time frame. This timing is dependent upon the final outcome of the Shames lawsuit.

The Council may also require more frequent tier rate adjustments. Under this method single-family dwellings would receive their tier rate adjustment, if any, two months after every actual read of their meter. The cost estimate for this method ranges from \$28,620 to \$38,637. This would be a one time expense paid to SDDPC. Estimated additional annual costs range from \$4,420 to \$5,724.

FISCAL CONSIDERATIONS:

- 1) The estimated one-time cost to revert to bi-monthly billing is \$111,800 to \$167,700. There would be a reduction in costs of approximately \$662,000 annually. The initial cost and annual savings would be equally divided between the Water and Wastewater funds.
- 2) The estimated one-time cost to increase the frequency of the tier rate adjustment is \$28,620 to \$38,637. Estimated additional annual costs of \$4,420 to \$5,724. The additional costs would be equally divided by the Water and Wastewater Funds.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On April 30, 2002, the Mayor and City Council directed the Water Department to implement monthly billing. On November 15, 2006, the Natural Resources and Culture Committee heard this item and requested that it be forwarded to the full City Council for discussion. At the April 30, 2007 meeting of the City Council, the Council directed the Mayor's staff to return this item to Council as an action item. Council directed the return to bi-monthly billing by March/April 2008 and increase the frequency of the tier rate adjustment by November 2007 from six months to every two months.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

All customers that currently receive an estimated bill every other month.

Barrett/Haas

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:48 p.m. – 3:03 p.m.)

MOTION BY FRYE TO INTRODUCE THE ORDINANCE WITH DIRECTION THAT THE MAYOR'S STAFF WILL EXPLORE OTHER ASSISTANCE PROGRAMS TO HELP LOW INCOME FAMILIES AND COME BACK WITH INFORMATION WITHIN 60 DAYS. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.



ITEM-200: Approval of Participation and Administration Agreements in San Diego City Employees' Retirement System (SDCERS) Group Trust.

SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM'S RECOMMENDATION:

Take the following actions:

CONTINUED TO MONDAY, JULY 9, 2007

Approving the attached Participation and Administration Agreement between SDCERS and the Unified Port District; and

Approving the attached Participation and Administration Agreement between SDCERS and the Airport Authority; and

Approving the attached Participation and Administration Agreement between SDCERS and the City of San Diego;

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

SUPPORTING INFORMATION:

Along with the City, the Port and the Airport Authority participate in SDCERS under City Charter Section 149 and San Diego Municipal Code Sections 24.1801 et seq. These provisions allow a public agency to contract with SDCERS to participate in the SDCERS Trust Fund, after the City Council makes a finding that the public agency is eligible and approves the contract between the agency and SDCERS. In 2002, the City Council found that the Port and the Airport Authority were eligible to participate in SDCERS under Charter Section 149, and approved the initial contracts between SDCERS and each agency.

Under Charter Section 149 and Municipal Code Section 24.1806, all funds contributed by a contracting public agency and its employees must be held in trust and used only to pay benefits and necessary expenses related to administering the retirement benefits of that agency. In order to carry out the intent of these provisions, and prevent the use of any contracting agency's plan assets to pay the liabilities associated with another agency's plan, tax counsel advised SDCERS to establish a Group Trust, within which SDCERS would administer each public agency's plan as a separate trust. Based on this advice, on March 16, 2007, the SDCERS Board unanimously approved a "Declaration of Trust" establishing the SDCERS Group Trust effective July 1, 2007. At that same time, the Board unanimously approved the three attached Participation and Administration Agreements with the City, the Port and the Airport Authority.

The Port and Airport Authority Boards have unanimously approved their respective Participation and Administration Agreements. Municipal Code Section 24.18020(j) requires that the Participation and Administration Agreements between SDCERS and each contracting public agency be approved by the City Council by Resolution.

A Council vote to approve the Participation and Administration Agreements of the City, Port, and Airport will ensure that the plan assets associated with each plan sponsor currently participating in SDCERS are unavailable to satisfy the liabilities of each other plan sponsor's plan. Both the Port and Airport Boards have made it clear that the participation of their assets in the SDCERS Group Trust is critical to their continued participation in SDCERS. If the City

Council does not approve their Participation and Administration Agreements, the Port and Airport may be forced to seek out another pension alternative to SDCERS.

FISCAL CONSIDERATIONS:

There is no financial impact associated with this action.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders are the City, Port, and Airport Authority, as well as their employees and retirees. Council approval of the three SDCERS Group Trust Participation and Administration Agreements will assure the employees and retirees of all three agencies that the assets in their retirement plans are safe from claims by or against the other SDCERS-administered plans.

Hebrank/Wescoe

FILE LOCATION: NONE

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

MOTION BY FAULCONER TO CONTINUE TO MONDAY, JUNE 25, 2007, FOR FURTHER REVIEW. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.



ITEM-S400: In the Matter of Overriding the Mayor's Veto of the Council's Modifications of the Mayor's Fiscal Year 2008 Proposed Budget in Accordance with Charter Section 290(b)(2)(B).

OVERRIDE FAILED/UPHELD MAYOR'S LINE ITEM VETO

(See Notice of Line Item Veto by Mayor Sanders dated 6/13/2007.)

On June 11, 2007, the Council approved, with certain modifications, the Mayor's FY 2008 Budget. On June 12, 2007, the FY 2008 Budget, as modified, was delivered to the Mayor to approve, veto, or modify any line item approved by the

Council. On June 13, 2007, the Mayor vetoed the Council modifications to the FY 2008 Budget to delete the reductions from the general fund reserves in the amount of \$465,000 for the Winter Homeless Shelter. The Council has five business days within which to override any vetoes or modifications made by the Mayor, in accordance with Charter Section 290(b)(2)(B).

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:19 p.m. – 4:08 p.m.)

MOTION BY FRYE TO OVERRIDE THE MAYOR'S LINE ITEM VETO. Second by Young. Failed. Yeas-456; Nays-1238; Not Present-7.

ITEM-250: **Notice** of Pending Final Map Approval – 2601 Wightman Street.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "2601 Wightman Street" (T.M. No. 124188/PTS No. 111510), located on the southeast corner of Villa Terrace and Wightman Street in the Greater North Park Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have

questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

ITEM-251: Notice of Pending Final Map Approval – Black Mountain Ranch North Village Unit No. 3A.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “Black Mountain Ranch North Village Unit No. 3A” (T.M. No. 40-0528/PTS No. 106264), located southeasterly of Camino Del Sur and Paseo Del Sur in the Black Mountain Ranch Community Plan Area in Council District 1, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President at 4:04 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 4:04 p.m. – 4:04 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego