

THE CITY OF SAN DIEGO, CALIFORNIA
 MINUTES FOR REGULAR COUNCIL MEETING
 OF
 TUESDAY, SEPTEMBER 18, 2007
 AT 9:00 A.M.
 IN THE COUNCIL CHAMBERS - 12TH FLOOR

Table of Contents

CHRONOLOGY OF THE MEETING.....	4
ATTENDANCE DURING THE MEETING	4
ITEM-300: ROLL CALL.....	5
NON-AGENDA COMMENT	5
COUNCIL COMMENT	8
INDEPENDENT BUDGET ANALYST COMMENT	8
CITY ATTORNEY COMMENT	9
ITEM-30: Stephen P. Doyle Day	9
ITEM-31: Fred Lewis Day	9
ITEM-32: Hillcrest Centennial Celebration Day	10
* ITEM-50: Twelfth Amendment to Lease Between the City of San Diego and Civic Center Associates, LLC to Add Space Leased at Civic Center Plaza Building Located at 1200 Third Avenue	11
* ITEM-51: Establishment of a Two-Hour Metered Parking Zone on 3800 Block of Vermont Street	12
ITEM-52: Agreement with Project Design Consultants for Regents Road Bridge and Limited Roadway Changes Project	12
* ITEM-100: Grant Application to CalTrans and Agreement with Simon Wong Engineering for Shoal Creek Pedestrian Bridge Over Ted Williams Parkway Project	13
* ITEM-101: Participation Agreement with Pardee Homes for Design and Construction of Sewer Pump Station 79 Upgrades.....	16

ITEM-102:	First Amendment to Agreement with Vasquez + Marshall & Associates for Downtown Fire Station No. 1	19
* ITEM-103:	FY 2007 Gang Prevention Coordination Assistance Program	23
* ITEM-104:	Grant Application to Highway Bridge Program (HBP) for West Mission Bay Drive Bridge over Mission Bay Channel Seismic Retrofit Project	25
* ITEM-105:	Approving Black Mountain Ranch North Village Unit No. 3A Final Map.....	27
* ITEM-106:	Jacobs International Teen Leadership Institute Day	29
* ITEM-107:	Solana Beach Little League Majors All Stars Day	30
* ITEM-108:	Aaron Price Fellows Day	30
* ITEM-109:	Geralyn White Day	31
* ITEM-110:	Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico	31
* ITEM-111:	Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City	32
ITEM-330:	City of San Diego's Participation in Amicus Curiae Brief in the Case of <i>In Re: Marriage Cases</i>	33
ITEM-331:	Establishment of Past Grand Jurors Association Implementation Review Board	35
ITEM-332:	Settlement of Attorney Fees in the Matter of McGuigan vs. City of San Diego..	36
ITEM-333:	Contract Change Order No. 2 for the Torrey Pines Golf Course and Clubhouse Improvements	38
ITEM-334:	Issuance of Multifamily Housing Revenue Bonds for Bay Vista.....	41
ITEM-S500:	Actions Related to the Construction of the Bayshore Bikeway, PTS No. 1901 of a 1.8-mile Class I bikepath to be located along the Otay River Berm and the Main Street Dike and the relocation of an existing haul road utilized by the South Bay Salt Works.....	43

REPORT OUT OF CLOSED SESSION	52
NON-DOCKET ITEMS	52
ADJOURNMENT.....	52

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:00 a.m. Council President Peters recessed the meeting at 11:08 a.m. for the purpose of a break. Council President Peters reconvened the meeting at 11:15 a.m. with Council Member Madaffer not present. The meeting was recessed by Council President Peters at 12:00 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:02 p.m. with Council Member Hueso not present and thereafter convened the Housing Authority. Council President Peters reconvened the regular meeting at 2:04 p.m. with Council Member Hueso not present. Council President Peters recessed the meeting at 3:11 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:17 p.m. with Council President Pro Tem Young not present. Council President Peters recessed the meeting at 4:45 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:56 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 6:10 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 (dlc/sr)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

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

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:37 a.m. - 10:39 a.m.)

PUBLIC COMMENT-2:

Hud Collins commented on the pension and the Iraq War.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-3:

Gloria Johnson commented on Fire Chief, Tracy Jarman.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-4:

Thomas Glasser commented on health care in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. - 10:47 a.m.)

PUBLIC COMMENT-5:

Al Strohlein commented on fire works and thunderboats.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:48 a.m. - 10:51 a.m.)

PUBLIC COMMENT-6:

Phil Hart commented on the Charger Stadium.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:51 a.m. - 10:54 a.m.)

PUBLIC COMMENT-7:

Mignon Scherer commented on water usage in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:54 a.m. - 10:56 a.m.)

PUBLIC COMMENT-8:

Nancy Warwick commented on street parking in La Jolla.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:56 a.m. - 10:58 a.m.)

PUBLIC COMMENT-9:

Referred to Mayor: Robert Haynes commented on concerns with San Diego sidewalks.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:58 a.m. - 11:02 a.m.)

PUBLIC COMMENT-10:

Ron Boshun commented on the actions of Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:02 a.m. - 11:05 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Frye requested the Audit Committee, Budget Committee or City Council to docket a hearing regarding the Actuarial Evaluation and Retirement Liability.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:25 a.m. - 10:29 a.m.)

COUNCIL COMMENT-2:

Council President Peters announced the Grand Opening of the North University City Branch Library, Wednesday, September 19, 2007.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:30 a.m. - 10:30 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.



[ITEM-30:](#) Stephen P. Doyle Day.

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-141) ADOPTED AS RESOLUTION R-302988

Recognizing Stephen P. Doyle for his tireless work as a champion for the City and People of San Diego;

Proclaiming September 18, 2007, to be "Stephen P. Doyle Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:01 a.m. – 10:07 a.m.)

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

ITEM-31: Fred Lewis Day.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-177) ADOPTED AS RESOLUTION R-303000

Commending Fred Lewis for his substantial contributions to San Diego;

Proclaiming September 18, 2007, to be “Fred Lewis Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:07 a.m. – 10:16 a.m.)

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



ITEM-32: Hillcrest Centennial Celebration Day.

COUNCILMEMBER ATKINS’ RECOMMENDATION:

Adopt the following resolution:

(R-2007-1226) ADOPTED AS RESOLUTION R-303001

Congratulating Hillcrest for its historic contributions over the past 100 years;

Proclaiming August 2, 2007, to be “Hillcrest Centennial Celebration Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:16 a.m. - 10:23 a.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-yea, Hueso-yea.

- * ITEM-50: Twelfth Amendment to Lease Between the City of San Diego and Civic Center Associates, LLC to Add Space Leased at Civic Center Plaza Building Located at 1200 Third Avenue. (Centre City Community Area. District 2.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/4/2007, Item 56. (Council voted 8-0):

(O-2008-1) ADOPTED AS ORDINANCE O-19665 (New Series)

Authorizing the Mayor, or his designee, to execute and deliver, for and on behalf of the City of San Diego, a Twelfth Amendment to Lease (Amendment) amending that certain Lease dated October 21, 1991, by and between the City Of San Diego, as tenant, and Civic Center Associates, LLC, a California limited liability company, as landlord, and relating to the addition of approximately 19,890 square feet of office space to the Lease premises located in the Civic Center Plaza building at 1200 Third Avenue, San Diego, California, under the terms and conditions set forth in the Amendment;

Authorizing and directing the City Auditor and Comptroller to expend up to \$350,254.90 in Fiscal Year 2008 as required under the Amendment, and to make such fund transfers and re-allocations as may be necessary and prudent to effect such payment.

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

FILE LOCATION: LEAS - Civic Center Association, LLC

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

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

- * ITEM-51: Establishment of a Two-Hour Metered Parking Zone on 3800 Block of Vermont Street. (Uptown Community Area. District 3.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/4/2007, Item 57. (Council voted 8-0):

(O-2008-15) ADOPTED AS ORDINANCE O-19666 (New Series)

Authorizing the establishment of a two-hour time limit metered parking zone to be effective everyday between 8:00 AM and 6:00 PM, Sundays and certain holidays excepted, on the 3800 Block of Vermont Street between University Avenue and the alley south of University Avenue.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

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

- ITEM-52: Agreement with Project Design Consultants for Regents Road Bridge and Limited Roadway Changes Project. (University Community Area. District 1.)

(See memoranda from City Attorney dated 7/24/2007 and 4/04/2007; memorandum from Kevin P. Sullivan and William J. Schwartz, Special Counsel dated 7/13/2007; and letter from American Society of Civil Engineers dated 7/27/2007.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/4/2007, Item 334, Subitem B. (Council voted 6-1. Councilmember Atkins voted nay. Councilmember Frye recused):

(O-2008-16 Cor. Copy) CONTINUED TO MONDAY, OCTOBER 9, 2007

Authorizing the Mayor, or his designee, to execute an agreement with Project Design Consultants, together with any reasonable necessary modifications or amendments which do not increase the project scope or cost and which the Mayor or his designee deem necessary from time to time in order to carry out the purposes and intent of this project and agreement, for the purpose of preparing supplemental environmental document, obtaining permits, and providing design services for the Regents Road Bridge and Limited Roadway Changes Project;

Authorizing the expenditure of an amount not to exceed \$4,861,373 for the agreement, provided the City Auditor and Comptroller first certifies the necessary 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;

Stating that this activity is not a “project” and is therefore exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:31 a.m.)

MOTION BY MADAFFER TO CONTINUE TO MONDAY, OCTOBER 9, 2007, FOR FURTHER REVIEW. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-recused, Madaffer-yea, Hueso-yea.

- * ITEM-100: Grant Application to CalTrans and Agreement with Simon Wong Engineering for Shoal Creek Pedestrian Bridge Over Ted Williams Parkway Project. (Carmel Mountain Ranch Community Area. District 5.)

STAFF’S RECOMMENDATION:

Adopt the following resolution:

(R-2008-134) ADOPTED AS RESOLUTION R-303002

Authorizing the Mayor, or designee, for and on behalf of the City, to apply for and take all necessary actions to secure \$221,094 in grant funding from CalTrans in Safe Accountable Flexible Efficient Transportation Equity Act: A Legacy for Users, California High Priority Project funds (SAFETEA-LU) for the design and preparation of environmental documents for the Shoal Creek Pedestrian Bridge Over Ted Williams Parkway, CIP-54-012.0 (Project);

Authorizing the City Auditor and Comptroller to take all necessary actions to accept funds if grant funding is received;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend \$221,094 in CIP-54-012.0, Fund No. 38928, on the Project if the CalTrans grant is secured;

Amending Fiscal Year 2008 Capital Improvements Program Budget by increasing CIP-54-012.0, Fund No. 38928, by \$221,094, contingent upon receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$56,687 from Fund CIP-59-021.0, Transnet Grant Matches, to CIP-54-012.0, Shoal Creek Pedestrian Bridge Over Ted Williams Parkway, within Fund No. 30300, Transnet, for the purpose of providing funds for the Project;

Authorizing the Mayor to execute, for and on behalf of the City, an agreement with Simon Wong Engineering (Agreement), for the design and preparation of environmental documents in CIP-54-012.0, Shoal Creek Pedestrian Bridge Over Ted Williams Parkway, in the amount of \$757,867, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$757,867, from CIP-54-012.0, for the purpose of executing the agreement, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

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

Declaring that this activity is not a “project” and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section 15060(c)(3). This determination is predicated on Section 15004 of the Guidelines, which provides direction to lead agencies on the appropriate timing for environmental review. Construction activities related to this action will be subject to review under the provisions of CEQA.

STAFF SUPPORTING INFORMATION:

In 2003, a feasibility study was prepared to construct a pedestrian bridge at the intersection of Ted Williams Parkway and Shoal Creek Drive. As a result of the study it was concluded that this bridge fit the criteria established by The San Diego City Council Policy 800-1 B that provides the guidelines for a pedestrian bridge to be installed over a signalized intersection.

Previously, the Federal Highway Administration had identified specific projects for funding from the Safe Accountable Flexible Efficient Transportation Equity Act: A Legacy for Users, California High Priority Project funds, (SAFETEA-LU). An earmark of \$1,200,000 was allocated for this project in increments. A portion of these funds become available annually over a 5 year period. The first two years has previously been applied for, accepted and authorized for expenditure by City of San Diego Council. This request is to apply for and accept the third year allocation of \$221,094 in Federal Grant Funds, which has recently become available. In addition, the Federal Grant matching funds are available through the transfer of funds from CIP-59-021.0, Transnet Grant Matches.

Consultants submitted letters of interest and five firms were interviewed in conformance with Council Policy 300-7 and Administrative Regulation 25.60. The firm, Simon Wong Engineering, was selected to design the project. The proposed agreement is for preliminary engineering, preparation of environmental documents, and preparation of plans specifications and estimates.

FISCAL CONSIDERATIONS:

Funding necessary for these actions, in the amount of \$757,867, of which \$606,294 is available from SAFETEA-LU Funds, and \$151,573, in matching funds, is available from fund 30300, Transnet, CIP-54-012.0, Shoal Creek Pedestrian Bridge Over Ted Williams Parkway.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Approval of the first two years of Federal Grant Funds per Resolution R-302591, dated May 14, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On June 14, 2006 the Carmel Mountain Ranch Community Council was given an informational presentation on the Shoal Creek Pedestrian Bridge Project. The design team will be working with the Shoal Creek Pedestrian Bridge Committee and the Carmel Mountain Ranch Community Council to seek their approval for conceptual design.

KEY STAKEHOLDERS:

City of San Diego, Carmel Mountain Ranch Community Council, CalTrans, Congressman Hunter, FHWA, Shoal Creek Elementary School, Simon Wong Engineering, Helix Environmental Planning, Inc., Kimley Horn Associates, and Geocon.

Boekamp/Haas

Aud. Cert. 2800108.

Staff: Dave Zoumaras - (619) 533-3138
Peter A. Mesich - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

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

* ITEM-101: Participation Agreement with Pardee Homes for Design and Construction of Sewer Pump Station 79 Upgrades. (Carmel Valley and Del Mar Community Areas. District 1.)

(See Executive Summary Sheet dated June 11, 2007.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-167) ADOPTED AS RESOLUTION R-303003

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an agreement with Pardee Homes for the design and construction of upgrades to Pump Station 79 and its sewer force mains, under the terms and conditions set forth in the Participation Agreement;

Authorizing the expenditure of an amount not to exceed \$4,279,224 from Sewer Fund No. 41506, CIP-46-602.6, Sewer Pump Station 79 Upgrades, solely and exclusively, to provide funds for the above agreement and related actions, to be expended as follows: \$576,761 for preliminary design; \$2,965,646 for the Participation Agreement with Pardee Homes; and \$736,817 for project related costs;

Authorizing the City Auditor and Comptroller to return any unexpended funds to the appropriate reserve upon request of the administering department; Declaring that the information contained in the final Mitigated Negative Declaration Project No. 9203, including any comments received during the public review process, has been previously reviewed and considered, and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with the approval of upgrades to Pump Station 79.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 7/18/2007, NR&C voted 3 to 0 to approve. (Councilmembers Faulconer, Frye, and Hueso voted yea. Councilmember Maienschein not present.)

SUPPORTING INFORMATION:

The existing sewer Pump Station 79 (PS 79) has been in operation since 1984. The facility is located in the Del Mar area east of the intersection of El Camino Real and San Dieguito Road, on the north side of San Dieguito Road. The City has determined that many of the components in PS 79 have reached their design life and are in need of replacement and that the pump station is nearing its capacity. A new force main is needed to provide redundancy. The new force main is proposed for installation in El Camino Real.

A previous engineering design for the pump station addressed the ultimate projected flows for full development build out of the drainage basin. These projections were based on standard dry weather criteria plus the addition of a wet weather factor. The wet weather factor was derived from historical meter data during rain events. Subsequent to these design flow projections a significant inflow and infiltration problem was identified within the existing pipelines of this

drainage basin. The City recently completed improvements to these existing sewer mains which significantly reduced the amount of infiltration thereby reducing the ultimate design capacity of the pump station which in turn has significantly reduced the scope of work from the initial design.

Pardee Homes is the owner and developer of a portion of the area commonly known as Pacific Highlands Ranch (PHR). The PS 79 sewer basin serves parts of PHR.

Pardee Homes, through a Participation Agreement with the City, will design and construct the required upgrades to PS 79. The upgrades shall include the construction of approximately 8,230 feet of 12-inch force main and up sizing and replacement of three submersible and three horizontal wastewater pumps. Additionally, to accommodate the upgraded pumps, the piping system and electrical system will be upgraded along with the instrumentation and control system.

The project approvals for PHR Units 5 through 11 and Units 17 through 22 require the developer to contribute their fair share cost for upgrading PS 79. Vesting Tentative Map (VTM) No. 7248 (PHR Units 5-11) Condition 15(a) states that "The Developer shall enter into a Participation Agreement with the City to contribute their fair share cost for upgrading PS 79 to accommodate sewer flows from the proposed development.

Approval of this action will provide an agreement mechanism for Pardee to satisfy its obligations to enter into a Participation Agreement with the City, to pay its fair share costs for the PS 79 improvements, and will have satisfied VTM No. 7248 Condition 15(a), VTM No. 4653 Condition 70, and related obligations for PHR Units 5-11 and 17-22.

The Pump Station 79 Upgrades are identified in the Final Consent Decree as a required project with a completion deadline of December 2008.

The PS 79 Improvements are necessary and benefit the City as a whole. Both the City and Pardee find it in their best interests to expedite the PS 79 Improvements. The agreement calculates the unit cost per equivalent dwelling unit (EDU) to be paid by all future development within the PS 79 basin.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$6,385,567 of which \$1,183,104 is allocated as Pardee's share (taking a credit against their first 936 EDU's), \$921,239 was previously authorized (R-294378), and \$2,000 was previously authorized (R-298364), leaving a balance of \$4,279,224 which will be available in Fund 41506, CIP-46-602.6, Sewer Pump Station 79 Upgrades. The project costs may be bond reimbursed approximately 80% by current or future debt financings.

Pardee will ultimately pay an additional \$1,231,136 associated with their future 974 EDU's at time of issuance of permits. The City anticipates approximately another \$601,000 in reimbursement from other developers in the tributary area to the pump station at time of issuance of their permits.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

R-294378 12/11/2000 \$921,239 for a design agreement with Brown and Caldwell.

R-298364 09/15/2003 \$2,000 for a sewer easement.

R-297087 09/24/2002 Granted Vesting Tentative Map No. 7248 to Pardee Homes

R-299673 09/21/2004 Granted Vesting Tentative Map No. 4653 to Pardee Homes

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

City of San Diego and Pardee Homes.

Ferrier/Haas

Aud. Cert. 2800067.

Staff: Craig Whittemore - (858) 292-6471
Thomas C. Zeleny - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

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



ITEM-102: First Amendment to Agreement with Vasquez + Marshall & Associates for Downtown Fire Station No. 1. (Centre City Community Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-149) ADOPTED AS RESOLUTION R-303004

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, a First Amendment to the Agreement with Vasquez + Marshall & Associates, for Architectural Services for Downtown Fire Station No. 1, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this Project and Agreement;

Authorizing a \$162,612 increase in the Fiscal Year 2008 Capital Improvement Program Budget in CIP-33-093.0, Downtown Fire Station No. 1, Fund No. 99044, Fire Stations;

Authorizing the appropriation and expenditure of an amount not to exceed \$162,612 from CIP-33-093.1, Downtown Fire Station No. 1, Fund 99044, Fire Stations, for the purpose of providing funds for the First Amendment with the Consultant;

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

Declaring that this activity (an amendment to an existing agreement) is not a "project" and is therefore not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3); while the overall activity is exempt from CEQA pursuant to CEQA Guidelines Section 15268(b), as the activity of rehabilitating Fire Station No. 1 is ministerial in nature.

STAFF SUPPORTING INFORMATION:

Downtown Fire Station No. 1 is a 32 years old facility located on the first floor of the San Diego City Operation/Development Services Building. It is the largest downtown fire station providing service to the entire community and handling over 12,000 calls for fire and medical assistance during the past year.

In April 2002, City Council approved a Lease Revenue bond financing plan for the Lifeguard and Fire Facility Improvement Projects. In July 2003, the City Council approved an architectural design agreement with Vasquez + Marshall & Associates, Inc. for the full renovation and remodel of the Downtown Fire Station No. 1 (FS1). The original scope of work included complete demolition and reconstruction of the interior space, including full asbestos removal, installation of fire sprinkler system, and separation of all utilities and electrical and mechanical systems from the rest of the building.

Due to City's inability to issue bonds over the last three years, and provide full funding, estimated at approximately \$7.0M in 2005, construction of the project was put on hold. In the meantime, the conditions within the station have continued to deteriorate creating operational and safety concerns. Given these concerns, on March 27, 2007, the City Council approved (RR-302472 and RR-302473) a cooperation agreement with the Redevelopment Agency for funding improvements in an amount not to exceed \$1.5M for FS1. Additionally, on July 31, 2007, CCDC issued a request for qualifications to redevelop the Civic Center Complex. Should the redevelopment of the Civic Center Complex proceed, FS1 would be completely rebuilt as part of the project, or if it is determined FS1 will not be included, a replacement facility for FS1 would need to be sited and constructed so as to provide the necessary emergency response coverage. Based on the available funding from the Redevelopment Agency and in consideration of the potential redevelopment of Civic Center Complex, the scope for the improvements changed from a complete renovation project to rehabilitation of the most critical components to help maintain a safe, and livable operational environment for the foreseeable future. These improvements provide for the highest Fire priority needs in the station.

Should the proposed redevelopment not take place, the items identified for correction under the complete renovation project originally approved by Council would need to be addressed to ensure continued long term operation of FS1.

The scope of the consultant work has been modified to rehabilitate the Fire Station versus a complete renovation and remodel. A portion of the original work by the consultant may be reused for the new scope, such as the original research and base maps. The Fire Department narrowed the scope of the project to those items which will get the station back to a standard operation level.

Asbestos abatement will be localized in the areas that will need to be disturbed as part of other improvements such as the electrical and mechanical upgrades. The new scope will require additional services to design and specify different floor layouts, materials, new electrical plans, ventilation and exhaust extraction system, new roll up doors, modified asbestos abatement plans to include only portions to be disturbed, modified mechanical/ventilation system designed for the

new configuration, modified kitchen area remodel and a new accessible restroom will have to be provided at a different location among other improvements.

FISCAL CONSIDERATIONS:

The total consultant's fee for professional services required for this First Amendment is \$162,612. Funds for this purpose are available in CIP-33-093.1, Downtown Fire Station No. 1, Fund No. 99044, Dept. No. 97743, Org. No. 4005.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On July 22, 2003, City Council adopted Resolution R-298235 for Phase I of the phased-funded consultant agreement with Vasquez + Marshall Associates for the remodel of Downtown Fire Station No. 1. On April 4, 2005, the City adopted resolution RR-300268 to receive funds from CCDC to fund Phase II of the consultant agreement with Vasquez and Marshall Associates. On March 27, 2007, the City adopted Resolutions RR-302472 and RR-302473 to meet safety codes and authorize the expenditure of funds needed to rehabilitate Fire Station No. 1 in an amount not to exceed \$ 1.5 million.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Presentations were made to CCDC subcommittees and Board, and to the Centre City Advisory Committee.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Fire Staff that work in the station.

Oskoui/Haas/Jarman

Aud. Cert. 2800141.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:55 a.m. – 12:00 a.m.)

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

* ITEM-103: FY 2007 Gang Prevention Coordination Assistance Program. (Encanto Community Area. District 4.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-115) ADOPTED AS RESOLUTION R-303005

Authorizing the Mayor, or his designee, for and on behalf of the City of San Diego, to apply for, accept, appropriate and expend the Office of Juvenile Justice and Delinquency Prevention (OJJDP) funds from the U.S. Department of Justice;

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, and to certify that the City will comply with all applicable statutory or regulatory requirements related to the OJJDP program, in an amount not to exceed \$200,000;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend these grant funds;

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

STAFF SUPPORTING INFORMATION:

The Commission on Gang Prevention and Intervention has been working on strategic goals and action plans for impacting gang activity in the City of San Diego.

The FY07 Gang Prevention Coordination Assistance Program is a competitive process requiring local entities to submit coordinated strategies and related program planning documents for impacting gang activity in target areas. For FY 2007, funding is based on the critical nature of the gang problem, the design of the program, the ability of the program to demonstrate competencies as well as monitor and provide outcomes and evaluation.

The Commission has submitted an application to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) on June 22, 2007. The application addresses expanding and coordinating of gang prevention, suppression and intervention strategies within a targeted area known as the Encanto neighborhoods. The goal of OJJDP program is to reduce gang activity in targeted communities through improved coordination of existing resources and activities that support multiple complimentary anti-gang strategies. Award notifications for the 2007 grant funds are to be announced on or about September 30, 2007.

FISCAL CONSIDERATIONS:

There is no non-federal match or cost share required for grants under the Gang Prevention Coordination Assistance Program covered by this resolution. The Commission has applied for \$200,000 for two years.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Not applicable.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Identified below.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The targeted approach grant application will impact the area called the Encanto neighborhoods, a high gang activity area in San Diego.

The youth of the neighborhood will benefit from an increase in resources in the focus area.

Sharpe-Underwood/Olen

Staff: Lynn Sharpe-Underwood - (619) 236-5936

Mary T. Nuesca - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

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

- * ITEM-104: Grant Application to Highway Bridge Program (HBP) for West Mission Bay Drive Bridge over Mission Bay Channel Seismic Retrofit Project (Bridge No. 57C-426). (Mission Bay Park Community Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-135 Cor. Copy) ADOPTED AS RESOLUTION R-303006

Authorizing the Mayor, or designee, for and on behalf of the City, to make an application to Highway Bridge Program (HBP) for an additional federal grant funding in an amount of \$77,104 for the West Mission Bay Drive Bridge Over Mission Bay Channel Seismic Retrofit Project (Project);

Authorizing the City Auditor and Comptroller to accept, appropriate and expend funds on the Project if the grant funding is secured;

Authorizing the City Auditor and Comptroller to establish a special interest bearing fund for the grant;

Amending Fiscal Year 2008 Capital Improvements Program Budget by increasing CIP-53-055.0, West Mission Bay Drive Bridge Over Mission Bay Channel Seismic Retrofit Project, by \$77,104, contingent upon receipt of a fully executed grant agreement;

Authorizing the appropriation and expenditure of an amount not to exceed \$77,104 HBP funding from CIP-53-055.0, West Mission Bay Drive Bridge Over Mission Bay Channel Seismic Retrofit Project, solely and exclusively, for the purpose of fulfilling Environmental Mitigation and Monitoring requirements contingent upon receipt of a federal funding authorization (E-76) for the Project, and provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$19,278 from CIP-59-021.0, Transportation Grant Matches, Fund 30244, to CIP-53-055.0, West Mission Bay Drive Bridge Over Mission Bay Channel Seismic Retrofit Project, Fund 30300, Transnet, as the local match to the grant, for the purpose of providing funds for the Project provided that the City Auditor and

Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures 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 that this activity is not a "project" and is therefore not subject to CEQA per CEQA Guidelines Section 15060(c)(2).

STAFF SUPPORTING INFORMATION:

The West Mission Bay Drive Bridge over Mission Bay Channel was identified as a seismically deficient bridge by Caltrans. To address the structural deficiencies, construction of the seismic retrofit was successfully completed in August of 2003.

As part of the project, five year eelgrass mitigation & monitoring program was required. Funding for the mitigation effort recently became available through the Highway Bridge Program.

FISCAL CONSIDERATIONS:

Of the \$96,382, \$77,104 (80%) is available through the Highway Bridge Program funding and \$19,278 (20%) is available from CIP-59-021.0, Transportation Grant Matches.

PREVIOUS COUNCIL COMMITTEE ACTION:

- Accepting \$8,000,000 of Federal HBP grant funds, Resolution R-296943, dated August 5, 2002, for the construction of West Mission Bay Drive Bridge over Mission Bay Channel Seismic Retrofit Project.
- Accepting additional \$1,397,013 of Federal HBP grant funds, Resolution R-296943, dated November 25, 2002 for construction funding.
- Authorizing the transfer, appropriation and expenditure of \$135,000 for non-reimbursable construction expenses, Resolution R-2006-1094 dated June 27, 2006.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None required for this action.

KEY STAKEHOLDERS:

City of San Diego, CalTrans and FHWA

Boekamp/Haas

Aud. Cert. 2800112.

Staff: Dave Zoumaras - (619) 533-3138
Peter A. Mesich - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

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

* ITEM-105: Approving Black Mountain Ranch North Village Unit No. 3A Final Map. (Black Mountain Ranch Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-163) ADOPTED AS RESOLUTION R-303007

Adopting all the findings under Section 66458 of the Subdivision Map Act as follows:

1. The MAP conforms to all requirements for the Subdivision Map Act, and
2. The Map conforms to all the requirements of the local subdivision ordinance contained in the San Diego Municipal Code Section 144.0401 et. seq.;

Finding that the MAP is made in the manner and form prescribed by law and conforms to the surrounding surveys; that the MAP is in substantial conformance with the approved tentative map; and that the MAP and subdivision of land shown thereon is hereby approved and accepted;

Accepting, on behalf of the City of San Diego, the building restricted easement for recreation purposes over, upon or across all those portions of Lot "A" with the exception of those portions of said lot as are shown and designated as building sites, as shown on the MAP and designated "Building Restricted Easement for

Recreation Lot Granted Hereon," as granted and shown on the MAP and subject to the conditions set forth on the MAP;

Accepting, on behalf of the City of San Diego, the easements for general utility and access purposes over, under, upon and across a portion of Lot 9 as shown on the map and designated as "General Utility and Access Easement Granted Hereon" as granted and shown on the MAP and subject to the Conditions set forth on the MAP;

Authorizing and directing the City Clerk to endorse upon the MAP, as and for the act of the Council, that the Council has approved the MAP as stated in this resolution;

Directing the City Clerk to transmit the MAP to the County Recorder of the County of San Diego, California for recordation.

STAFF SUPPORTING INFORMATION:

This project is located in the Black Mountain Rancho Community Plan area southeasterly of Paseo Del Sur and Camino Del Sur. This map is an amendment of a portion of Black Mountain Ranch North Village Unit No. 3. This map requires Council approval because a building restricted easement granted on Black Mountain Ranch North Village Unit No. 3 is being vacated. A building restricted easement in the same location of almost identical size is being granted on the new map. This easement will be maintained by the Home Owner's Association.

A Substantial Conformance Review was approved on November 27, 2001. All public improvements for this subdivision were provided for in connection with Black Mountain Ranch North Village Unit 3. There are no additional requirements for approval of this map.

FISCAL CONSIDERATIONS:

There are no fiscal impacts in connection with this action. All costs are being paid by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable): -
Black Mountain Ranch LLC

Manis/Murray

Staff: G. Bollenbach - (619) 446-5417
Marianne Greene - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

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

* ITEM-106: Jacobs International Teen Leadership Institute Day.

MAYOR SANDERS' AND COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-112) ADOPTED AS RESOLUTION R-303008

Proclaiming the day of July 17, 2007, to be “Jacobs International Teen Leadership Institute Day” in the City of San Diego in recognition of the positive global impact the Jacobs International Teen Leadership Institute brings to the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

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

* ITEM-107: Solana Beach Little League Majors All Stars Day.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-178) ADOPTED AS RESOLUTION R-303009

Commending the Solana Beach Little League Majors All Stars Team;

Proclaiming August 25, 2007, to be "Solana Beach Little League Majors All Stars Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

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

* ITEM-108: Aaron Price Fellows Day.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-111) ADOPTED AS RESOLUTION R-303010

Proclaiming July 23, 2007, to be "Aaron Price Fellows Day" in the City of San Diego in recognition of the positive impact the Aaron Price Fellows Program brings to the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

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

* ITEM-109: Geralyn White Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-176) ADOPTED AS RESOLUTION R-303011

Proclaiming September 8, 2007, to be "Geralyn White Day" in the City of San Diego, and commending Geralyn White for the countless volunteer hours that she has given to the Community of Serra Mesa and for working tirelessly in her attempts to make this year's Serra Mesa Street Fair a wonderful day for the community.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

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

* ITEM-110: 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-2007-1214) ADOPTED AS RESOLUTION R-303012

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: 10:33 a.m. – 10:37 a.m.)

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

* ITEM-111: 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-2007-1233) ADOPTED AS RESOLUTION R-303013

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

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

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

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



[ITEM-330: City of San Diego's Participation in Amicus Curiae Brief in the Case of *In Re: Marriage Cases*.](#)

COUNCILMEMBER ATKINS' RECOMMENDATION:

Take the following actions:

(R-2008-183) ADOPTED AS RESOLUTION R-303015

Declaring the City of San Diego's support for eliminating discrimination against same sex couples in the State of California's civil marriage laws, acknowledging the initiative of the City and the County of San Francisco in its appeal to the California Supreme Court, and directing the City Attorney to sign on to the *amicus curiae* brief in support of San Francisco in a timely manner so as to comply with the Court's September 17, 2007 deadline.

SUPPORTING INFORMATION:

The California Supreme Court is currently considering the case of *In Re: Marriage Cases* which involves several lawsuits filed in March 2004 on behalf of same sex couples denied the ability to marry in California, many of whom had applied to obtain marriage licenses in San Francisco during the period when San Francisco was issuing such licenses to all couples, regardless of sexual orientation. Before these couples could marry, the California Supreme Court ordered San Francisco Mayor Gavin Newsom to stop issuing licenses to same sex couples. At the same time, the state Supreme Court invited litigation to resolve the constitutional issues presented by the discrimination against same sex couples in the state's civil marriage laws.

In 2005, San Francisco Superior Court Judge Richard Kramer ruled that it was unconstitutional to deny same sex couples the right to marry because it violated California's equal protection guarantees and the fundamental right to marry, which has been recognized through a long line of jurisprudence, including landmark cases eliminating statutory prohibitions against interracial marriage. As a general proposition, rights deemed fundamental may not be restricted without a compelling governmental justification. In the current case, the state argues that the traditional exclusion of same sex couples from marriage and the desire of the majority of Californians to maintain that discrimination is its justification.

The Superior Court decision was overturned by the California Court of Appeal in 2006. In eight *amicus curiae* (friend-of-the-court) briefs filed with the Court of Appeal, more than 250 religious and civil rights organizations urged the court to end the discrimination in state law against same

sex couples. Among these amici were the California NAACP, the Mexican American Legal Defense and Educational Fund (MALDEF), the United Church of Christ, the Union for Reform Judaism, the Unitarian Church, and the California Council of Churches.

The case has now been appealed to the California Supreme Court and a number of local governments will submit an *amicus* brief on or before September 17, 2007, urging the Court to overturn the Court of Appeal.

The essence of the argument in the local government brief is that government's duty to treat all equally is not trumped by any compelling, or even rational, governmental goal. The *amicus* brief argues that the mere desire to exclude a traditionally disfavored group - even a desire that is popular and of long standing - can never be a constitutionally sufficient reason to deprive Californians of any right conferred by the laws of this state. The brief further asserts that the creation of a separate, but somewhat less equal, institution for same sex couples -- that is, domestic partnership -- does not fulfill the state's obligation to equal protection. Not only is domestic partnership an inferior institution because it provides fewer rights and obligations than marriage in a variety of ways, it is also inferior in that it does not carry with it the societal imprimatur of approval and support for a couple's commitment to each other that is associated with marriage.

Current local government signers of the *amicus brief* include the cities of Los Angeles, San Jose, Oakland and Berkeley and San Mateo and Santa Clara Counties. The addition of San Diego, the state's second largest city, to the list of municipalities signing the brief would not only be extremely persuasive to the Court, it will also be persuasive with other local governments currently considering whether or not to join the case as an *amicus*.

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, parties to the litigation, and same sex couples throughout the state who wish to marry. Council approval of this action will enhance the likelihood that these couples will receive equal treatment under California law.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:17 p.m. – 6:05 p.m.)

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



ITEM-331: Establishment of Past Grand Jurors Association Implementation Review Board.

(See Independent Budget Analyst Report No. 06-50; City Attorney Report to the City Council dated 5/30/2007 [not available at the Committee]; and City Attorney Report to the Rules Committee dated 7/19/2006 [not available at the Committee].)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2007-135 Cor Copy) INTRODUCED AS AMENDED; TO BE
ADOPTED ON TUESDAY, OCTOBER 9, 2007

Introduction of an Ordinance amending Chapter 2, Article 6, of the San Diego Municipal Code by adding Division 20, titled City of San Diego Past Grand Jurors Association Implementation Review Board, to establish a review board comprised of past San Diego County Grand Jury members to assist in the implementation of County Grand Jury recommendations that have been accepted by the City of San Diego.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS
COMMITTEE'S RECOMMENDATION:**

On 11/22/2006, Rules voted 5 to 0 to adopt an ordinance establishing the City of San Diego Past Grand Juror's Association Implementation Review Board with changes to indicate that members of the board shall not have been members of the criminal Grand Jury and that the board shall designate its own chairperson during January of each year. (Councilmembers Peters, Young, Maienschein, Frye, and Madaffer voted yea.)

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:16 a.m. – 11:50 a.m.)

MOTION BY FRYE TO INTRODUCE AS AMENDED TO INCLUDE AN ANNUAL CAP OF \$10,000. IN ADDITION, THIS WILL BE A TWO-YEAR TRIAL PERIOD AND THE INDEPENDENT BUDGET ANALYST WILL BE INVITED TO ALL MEETINGS. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-332: Settlement of Attorney Fees in the Matter of McGuigan vs. City of San Diego.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-180) ADOPTED AS RESOLUTION R-303014

A Resolution approved by the City Council in Closed Session on Tuesday, July 31, 2007, by the following vote: Council President Peters-not present; Faulconer-yea; Atkins-yea; Council President Pro Tem Young-yea; Maienschein-not present; Frye-yea; Madaffer-yea; Hueso-not present.

Authorizing the Mayor to pay the sum of \$1,600,000 payable to Michael A. Conger, Esq. in settlement of attorney fees against the City of San Diego, its agents and employees, resulting from the Claim, William McGuigan v. The City of San Diego, SDSC Case No. GIC849883;

Authorizing the City Auditor and Comptroller to issue the first installment in the amount of \$800,000 payable on August 31, 2007;

Authorizing the City Auditor and Comptroller to issue two (2) additional payments in the amount of \$400,000 each due no later than August 31, 2008 and August 31, 2009, respectively, upon Council approving the appropriation of funding for the respective years;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$1,600,000 from the Public Liability Fund, solely and exclusively, for the purpose of providing funds for the above described settlement, contingent upon the City Auditor and Comptroller first furnishing one or more certificates demonstrating that the funds necessary for expenditures are, or will be, on deposit in the City Treasury.

STAFF SUPPORTING INFORMATION:

The proposed settlement would resolve all attorney fees arising from the Claim, McGuigan vs. The City of San Diego.

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 July 31, 2007, the City Council approved the settlement amount of \$1,600,000. City Council voted 5 to 0 to approve. The motion was made by Councilmember Madaffer with a second by Councilmember Frye. Council President Peters, Councilmembers Maienschein, and Hueso were absent.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Heumann/Goldstone

Aud. Cert. 2800177.

NOTE: The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

Staff: Jean Peters - (619) 235-5710
Todd F. Bradley - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:51 a.m. – 11:54 a.m.)

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

ITEM-333: Contract Change Order No. 2 for the Torrey Pines Golf Course and Clubhouse Improvements. (University Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-120) RETURNED TO MAYOR

Amending the Fiscal Year 2008 Capital Improvements Program Budget for CIP-25-012.0, Torrey Pines Golf Course South Course Improvements, in Fund 41400, Golf Enterprise Fund, by increasing the budget amount by \$600,000; and CIP-25-018.0, Torrey Pines Golf Course - Existing Clubhouse Maintenance Requirements, in Fund 41400, Golf Enterprise Fund, by increasing the budget amount by \$400,000;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$600,000 from CIP-25-012.0, Torrey Pines Golf Course South Course Improvements, Fund No. 41400, Golf Enterprise Fund; and \$400,000 from CIP-25-018.0, Torrey Pines Golf Course - Existing Clubhouse Maintenance Requirements, Fund 41400, Golf Enterprise Fund, solely and exclusively for the purpose of providing funds for constructing golf course improvements in anticipation of the 2008 US Open golf tournament, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the Change Order No. 2 to Contract K-073923 in the amount of \$383,633.53, which will increase the total construction contract to \$1,204,780.17;

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 covered under the Torrey Pines Golf Course Improvements Mitigated Negative Declaration, dated April 15, 2005. That this activity is adequately addressed in the environmental document and that there is no change in circumstance, additional information, or project changes to warrant additional review. Therefore, this activity is not a separate project for purposes of CEQA review pursuant to State CEQA Guidelines Section 15060 (c)(3).

STAFF SUPPORTING INFORMATION:

On October 14, 2002, City Council entered into a lease agreement with the Friends of Torrey Pines, LLC (Friends), for the use of the Torrey Pines Golf Course for the 2008 US Open (R-297193). The Lease Agreement obligates the Friends to operate and organize the 2008 US Open and pay for a portion of the course improvements for the event as directed by the United States Golf Association (USGA). The City's improvements to the South Torrey Pines Course will include removal and replacement of Kikuyu turf, installation of cart paths to ensure success of the turf prior to the US Open, and aesthetic improvements to the existing halfway house and comfort station.

The cost of improvements to the South Course has exceeded the amount originally anticipated, and additional funding is required. Additional improvements have been requested by the USGA and Golf Operations staff to prepare the course for the 2008 US Open. Additional funding in the amount of \$600,000 within CIP-25-012.0, Torrey Pines Golf Course South Course Renovation is requested to complete the scope of improvements required prior to the US Open.

On June 8, 2007, the City entered into a construction contract with Kubly Golf Course Construction, Inc. for the construction of improvements to the South Course in association with CIP-25-012.0 (K073923). The original construction contract amount is \$621,393.46. As noted above, additional work is desired to prepare the South Course for the 2008 US Open as directed by the USGA and Golf Operations staff. Construction Change Order #1 has been issued in the amount of \$199,753.18, which addresses additional turf replacement (conversion from Bermuda turf to Kikuyu turf). A second construction change order in the amount of \$383,633.53 is required, which will increase the total construction contract amount to \$1,204,780.17.

On December 1, 2006, City Council authorized amendment to the FY 07 CIP Budget to add CIP-25-018.0, Torrey Pines Golf Course - Existing Clubhouse Maintenance Requirements with an initial appropriation of \$400,000. Improvements anticipated for the clubhouse included painting, landscaping, irrigation, and enhanced paving. Additional improvements are desired, including construction of a new Starter's Booth, installation of the Rolex clock (clock donated by Rolex), a new course map, and a new snack cart pad with screen fencing.

Additional funding in the amount of \$400,000 within this project is requested to complete these and any other additional improvements prior to the US Open.

FISCAL CONSIDERATIONS:

Funding in the amount of \$1,000,000 is available in Fund 41400, Golf Enterprise Fund, for these actions.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The following are Council or Committee actions previously taken:

- October 14, 2002 - City Council approval of the Lease Agreement with the Friends of Torrey Pines, LLC, for the use of the Torrey Pines Golf Course for the 2008 US Open (R-297193).
- January 11, 2005 - City Council approval of CIP-25-012.0, Torrey Pines Golf Course South Course Renovation (R-300047).
- June 26, 2006 - City Council adoption of the Golf Operations Five Year Business Plan.
- December 1, 2006 - City Council approval of CIP-25-018.0, Torrey Pines Golf Course Existing Clubhouse Maintenance Requirements.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Improvements to the Torrey Pines Golf Complex have received input and review from the Golf Advisory Committee, Council Committee, City Council, and the California Coastal Commission.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The following are stakeholders in the proposed resolutions:

Daily local and visiting golfers
Kubly Golf Course Construction, Inc.
Heffler Company, Inc.
Friends of Torrey Pines, LLC
United States Golf Association (USGA)

Boekamp/Haas

Aud. Cert. 2800165.

Staff: Ali Darvishi - (619) 533-6526
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

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

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR WITH DIRECTION TO BRING THE ITEM BACK FOR DISCUSSION AT THE NATURAL RESOURCE COMMITTEE. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-334: Issuance of Multifamily Housing Revenue Bonds for Bay Vista. (Encanto Community Area. District 4.)

(See San Diego Housing Commission Report HAR07-026.)

SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-173) CONTINUED TO TUESDAY, SEPTEMBER 25, 2007

Approving the issuance of not to exceed \$27,000,000 aggregate principal amount of multifamily housing revenue bonds (Bonds) by the Housing Authority of the City of San Diego, to finance the acquisition and rehabilitation of a multifamily rental housing project in the City of San Diego, pursuant to Section 147(f) of the Internal Revenue Code of 1986;

Declaring the City does not warrant the creditworthiness of the Bonds or guarantee, in any way, the payment of the Bonds. No moneys of the City will be pledged or applied to the repayment of the Bonds.

SUPPORTING INFORMATION:

Bay Vista is an existing 268-unit affordable housing complex located at 4888 Logan Avenue. The project includes 100 two-bedroom and 168 three-bedroom units in 32 buildings. Bay Vista also includes three playgrounds, a community room, and an on-site daycare facility. The property was built in 1969 by a non-profit affiliate of St. Paul United Methodist Church. St. Paul's has owned and operated Bay Vista since its opening and has recently agreed to sell the property to Amerland Group, LLC (Amerland).

Amerland intends to acquire Bay Vista, preserve and extend the affordable rents, and substantially rehabilitate the property. Amerland is a San Diego-based company founded in 2001 by Ruben Islas and Jules Arthur. The firm specializes in the creation and maintenance of affordable multifamily housing. Amerland currently owns 15 affordable housing developments totaling over 2,500 units.

Through the Housing Commission's Bond Program, rents on all the units will be restricted at 50% and 60% of the Area Median Income (AMI) (\$35,100 and \$49,150 for a family of four) for a minimum of 55 years. However, Amerland will also be seeking a 20-year extension of the

HUD Section 8 contract to ensure that tenants will continue to pay 30% of their incomes toward rent after the acquisition and rehabilitation of the project.

The total development cost of the project is estimated to be approximately \$33 million. Other sources of permanent funds for the project will include federal tax credits, a deferred developer fee, and income from operations. The developer currently proposes to issue the bonds through a private placement. The bonds would meet all the requirements of the Housing Commission's Multifamily Housing Revenue Bond Program policy and would fully comply with the City's ordinance on bond disclosure.

FISCAL CONSIDERATIONS:

There are no fiscal impacts to the Housing Commission, City, or Housing Authority associated with the requested actions. Approval of the bond inducement and TEFRA resolutions do not commit the Housing Authority to issue bonds. The bonds would not constitute a debt of the City of San Diego. If bonds are ultimately issued for the project, the bonds will not financially obligate the City, the Housing Authority or the Housing Commission because security for the repayment of the bonds will be limited to specific private revenue sources. Neither the faith and credit nor the taxing power of the City or the Authority would be pledged to the payment of the bonds. The developer is responsible for the payment of all costs under the financing, including the Housing Commission's annual administrative fee.

PREVIOUS HOUSING AUTHORITY and/or COMMITTEE ACTIONS: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Amerland will present their proposal for Bay Vista to the Encanto Community Planning Group in the near future.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The residents of Bay Vista are stakeholders. Amerland will acquire and rehabilitate the project. The seller of the property is a non-profit established by St. Paul's United Methodist Church. Amerland has selected Red Capital Markets as the tax credit investor for the project.

Fisher/Morris

NOTE: See the Housing Authority Agenda of September 18, 2007, for a companion item.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:04 p.m.)

MOTION BY YOUNG TO CONTINUE TO TUESDAY, SEPTEMBER 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-yea, Hueso-not present.



ITEM-S500: Actions Related to the Construction of the Bayshore Bikeway, PTS No. 1901 of a 1.8-mile Class I bikepath to be located along the Otay River Berm and the Main Street Dike and the relocation of an existing haul road utilized by the South Bay Salt Works. (Otay Mesa-Nestor Community Plan Area. District 8.)

Matter of approving, conditionally approving, modifying or denying an application for the construction and operation of a 1.8-mile Class I bikepath to be located along the Otay River Berm and the Main Street Dike and the relocation of an existing haul road utilized by the South Bay Salt Works. The bikepath would be a segment of the 24-mile Bayshore Bikeway and would connect to an existing segment at 13th Street (City of Imperial Beach) on the west side and Main Street (City of San Diego) on the east.

The bike path would be located primarily within the Metropolitan Transit System (MTS) right-of-way, on an asphalt path with 2-foot wide paved porous concrete shoulders on each side of the bikepath. A chain link fence would be erected on both sides of the bikepath along the entire alignment. The proposed project would include the placement of two steel truss bridges above the existing, unserviceable wooden trestle bridges that currently cross the Otay River at these locations. The existing wooden trestle bridges, as well as, the existing wooden railroad rails and

ties, are part of the locally historically designated Coronado Railroad Belt Line (CBL) Historical Resources Board (HRB) Number 640.

The proposed project requires a Site Development Permit due to impacts to Environmentally Sensitive Lands (ESL), specifically to sensitive biological resources and for deviations to construct two steel truss bridges where structures are not permitted in special flood hazard areas and to impact Historical Resource No. 640, the Coronado Belt Line (CBL) Railroad. The impacts to the historically designated railroad are related to the removal of the existing wooden ties, capping the existing railroad rails with soil and placement of steel truss bridges on top of the existing wooden trestle bridges.

(See Report to the City Council No. 07-141. Otay Mesa-Nestor Community Plan Area. District 8.)

(Continued from the meeting of September 11, 2007, Item 337, at the request of Councilmember Faulconer, for further review.)

NOTE: Hearing open. No testimony taken on 9/11/2007.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2008-137) ADOPTED AS RESOLUTION R-303016

Adoption of a Resolution certifying that Final Environmental Impact Report No. 1901, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act (CEQA) 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 report 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 City Council in connection with the approval of a site development permit and easement deed for the Bayshore Bikeway project;

Declaring that pursuant to California Public Resources Code Section 21081 and California Code of Regulations Section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference;

Declaring that pursuant to California Code of Regulations Section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference, with respect to the project;

Declaring that pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference;

Directing the City Clerk 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: (R-2008-138) ADOPTED AS RESOLUTION R-303017

Adoption of a Resolution approving Site Development Permit No. 3276.

Subitem-C: (R-2008-123) ADOPTED AS RESOLUTION R-303018

Adoption of a Resolution authorizing the Mayor, or his designee, to accept SANDAG MC Transnet Funds, in the amount of \$3,774,000 for CIP-58-140.0, Bayshore Bikeway;

Authorizing the City Auditor or Comptroller to establish a new fund to receive SANDAG Transnet Major Corridor (MC) funds;

Authorizing the Mayor, or his designee, to accept Transnet Bikeway funds (Fund 30301), in the amount of \$718,000 for CIP-58-140.0, Bayshore Bikeway;

Authorizing the City Auditor and Comptroller to deappropriate and transfer an amount not to exceed \$850,000 in Federal Congestion Management Air Quality (CMAQ) funds from CIP-58-140.0, Bayshore Bikeway, Fund No. 38683, Federal and State funds, back to the appropriate agencies;

Amend by increasing the budget amount by \$3,642,000, the Fiscal Year 2008 Capital Improvements Program Budget for CIP-58-140.0, Bayshore Bikeway;

Authorizing the expenditure of an amount not to exceed \$4,492,000 from CIP-58.140.0, Bayshore Bikeway, \$3,774,000 in SANDAG Transnet Major Corridor (MC) funds and \$718,000 of Transnet Bikeway Fund 30301, solely and exclusively for the purpose of providing funds for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the Mayor, or his designee, to enter into a Construction Contract (BID No. K083903C) with the lowest responsible and reliable bidder, after advertising for bids in accordance with law, and contingent upon receipt of all permits, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

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

Subitem-D: (R-2008-139) ADOPTED AS RESOLUTION R-303019

Adoption of a Resolution authorizing the Mayor, or his representative, to accept an easement deed executed by M&A Gabae, CLP, granting the City a permanent easement and right-of-way for pedestrian and non-motor vehicular purposes and incidents thereto, over, under, upon along and across all that real property situated in the City of San Diego, County of San Diego, State of California, as more particularly described in said deed.

Subitem-E: (R-2008-140) ADOPTED AS RESOLUTION R-303020

Resolution authorizing and empowering the Mayor to execute, for and on behalf of said City, a licensing agreement with the Metropolitan Transit System (MTS)/SD&E Railroad (SD&E), for the use of the MTS/SD&E right-of-way for purposes of constructing and operating the Bayshore Bikeway, under the terms and conditions set forth in the Licensing Agreement.

OTHER RECOMMENDATIONS:

Planning Commission Board voted on September 6, 2007, 4-2-1 to approve this project.

Ayes: Smiley, Schultz, Otsuji, Ontai

Nays: Griswold, Naslund

One Vacancy

The Otay Mesa-Nestor Community Planning Group voted on September 18, 2002, to approve this project with no conditions.

On August 23, 2007, HRB voted 7:0:1 to support the preservation of the bridges, those areas proposed for preservation of lines and ties in place, and the interpretive programs, with further research and consideration given to preserving more ties in place through capping and limiting the chain link fence to 3feet-6 inches. There was clarification that there should be consideration of both technological and economic factors in determining the feasibility of capping more of the resource. Their motion to preserve the ties in place through capping has not been implemented. This situation is considered unsafe and presents significant safety issues for future users of the bike path because the wooden ties are in various states of deterioration and are expected to continue to deteriorate. If the ties were to remain in place the bike path would be expected to experience surface pavement deterioration (potholes, cracks, and surface level changes) over time, as the ties continue to deteriorate and crumble under the bike path surface, creating voids under the bike path users and an uneven path surface. The US Fish and Wildlife Service required a 7-foot security fence to provide a barrier between the bike path and adjacent sensitive habitat.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTIONS:

Approval of a Site Development Permit and associated actions for the construction and operation of the 1.8-mile long "Western Salt Segment" of the Bayshore Bikeway which is to be located along the Otay River Berm and the Main Street Dike, and the relocation of an existing haul road utilized by the South Bay Salt Works in the Otay Mesa-Nestor Community Plan area.

STAFF RECOMMENDATIONS:

1. CERTIFY Environmental Impact Report (EIR) No. 1901; ADOPT Final EIR No. 1901; ADOPT the Findings and Statement of Overriding Considerations; and ADOPT the Mitigation, Monitoring, and Reporting Program;
2. APPROVE Site Development Permit No. 3276;

3. APPROVE the Resolution authorizing the Auditor and Comptroller to establish a new fund to receive SANDAG Transnet Major Corridor (MC) funds;
4. APPROVE the Resolution authorizing the Mayor, or his representative, to accept \$3,774,000 in SANDAG MC Transnet funds to fully fund CIP-58-140.0;
5. APPROVE the Resolution authorizing the Auditor and Comptroller to increase the amount of Transnet Bikeway funds (Fund 30301) by \$718,000
6. APPROVE the Resolution authorizing the increase in the FY 2008 budget of CIP-58-140.0 to \$4,658,775;
7. APPROVE the Resolution authorizing the deappropriation and return of previously received Federal and State funds (Fund 38683, not to exceed \$850,000) to the appropriate agencies;
8. APPROVE the Resolution authorizing the Auditor and Comptroller to return excess budgeted funds, if any, to the appropriate reserves;
9. APPROVE the Resolution authorizing the Mayor, or his representative, to expend up to \$4,802,306.13 for purposes of designing and constructing the Bayshore Bikeway, CIP-58-140.0;
10. APPROVE the Resolution authorizing the Mayor, or his representative, to accept an easement deed from M&A Gabae, CLP, for that portion of the bikeway not owned by MTS/SD&AE;
11. APPROVE the Resolution authorizing the Mayor, or his representative, to enter into a license agreement for the use of the MTS/SD&AE right-of-way for purposes of constructing and operating the Bayshore Bikeway; and
12. APPROVE the Resolution authorizing the Mayor, or his representative, to enter into a Construction Contract (BID No. K083903C) with the lowest responsible and reliable bidder contingent upon receipt of all permits.

EXECUTIVE SUMMARY:

The proposal is for the construction and operation of a 1.8-mile Class I bike path to be located along the Otay River Berm and the Main Street Dike and the relocation of an existing haul road utilized by the South Bay Salt Works. The bike path would be a segment of the 24-mile Bayshore Bikeway and would connect to an existing bike path segment at 13th Street (City of Imperial Beach) on the west side and Main Street (City of San Diego) on the east.

The bike path would be located primarily within the Metropolitan Transit System (MTS) railroad right-of-way. The bike path would be 12-foot wide, including an 8-foot wide paved asphalt path with 2-foot wide paved porous concrete shoulders on each side of the bike path. A chain link fence would be erected on both sides of the bike path along the entire alignment. The proposed project would include the placement of two steel truss bridges above the existing, unserviceable wooden trestle bridges that currently cross the Otay River at these locations. The existing wooden trestle bridges, as well as, the existing wooden railroad rails and ties, are part of the locally historically designated Coronado Railroad Belt Line (CBL) Historical Resources Board (HRB) Number 640.

The proposed project requires a Site Development Permit due to impacts to Environmentally Sensitive Lands (ESL), specifically to sensitive biological resources and for deviations to construct two steel truss bridges where structures are not permitted in special flood hazard areas and to impact Historical Resource No. 640, the Coronado Belt Line (CBL) Railroad. The impacts to the historically designated railroad are related to the removal of the existing wooden ties, capping the existing railroad rails with soil and placement of steel truss bridges on top of the existing wooden trestle bridges.

FISCAL CONSIDERATIONS:

All costs are recovered through CIP-58140.0, Bayshore Bikeway, which will be fully funded by Transnet Bikeway and Transnet Major Corridor funds from SANDAG.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The previously authorized funding (see below) for the Bayshore Bikeway Capital Improvement Project CIP-58.140.0 was Federal Congestion Management Air Quality (CMAQ) funds. In order to expedite the project approval process and construction to begin during the October 1st to February 15th allowable window this fall (an annual restriction based on endangered species nesting seasons), the decision was made by SANDAG to substitute additional SANDAG Transnet Bikeway and SANDAG Transnet Major Corridor (MC) funds for the Federal funds, thereby removing the need for Federal review and approval time prior to advertising for construction. The project was able to be advertised for bids in July/August, with bids opened August 8, 2007. The SANDAG Transnet MC funds were substituted from another project (SR52 Highway Improvements) which already had Federal FHWA approval required. The Transnet funds received by these actions are in addition to the City's Transnet allocation.

R-293689 (8/15/2000) Established the CIP/Accepted \$350,000 in Federal CMAQ funding for preliminary engineering C-10288 (9/25/2000) Consultant Contract with Kimley-Horn, and Associates, Inc. R-300662 (7/18/2005) Increased the Federal CMAQ funding by \$500,000 to \$850,000, and authorized Amendment #1 to Consultant Agreement with Kimley-Horn.

PLANNING COMMISSION ACTION:

This information is unavailable at this time. The Planning Commission will be acting on matter on September 6, 2007.

HISTORICAL RESOURCES BOARD ACTION:

On August 23, 2007, HRB voted 7:0:1 to support the preservation of the bridges, those areas proposed for preservation of lines and ties in place, and the interpretive programs, with further research and consideration given to preserving more ties in place through capping and limiting the chain link fence to 3feet-6 inches. There was clarification that there should be consideration of both technological and economic factors in determining the feasibility of capping more of the resource. Their motion to preserve the ties in place through capping has not been implemented. This situation is considered unsafe and presents significant safety issues for future users of the

bike path because the wooden ties are in various states of deterioration and are expected to continue to deteriorate. If the ties were to remain in place the bike path would be expected to experience surface pavement deterioration (potholes, cracks, and surface level changes) over time, as the ties continue to deteriorate and crumble under the bike path surface, creating voids under the bike path users and an uneven path surface. The US Fish and Wildlife Service required a 7-foot security fence to provide a barrier between the bike path and adjacent sensitive habitat.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Otay Mesa-Nestor Planning Group - The planning group voted to approve the project, with no conditions, on September 18, 2002.

Save Our Heritage Organization (SOHO) - The City has worked with SOHO to redesign the project to response to their input and concerns. Specific project features that have been incorporated include: 1) maintaining the existing railroad trestle bridges in their current condition and in a manner that maintains the ability to view the structures from various locations; 2) maintaining the existing steel rails in place; and 3) providing interpretive facilities regarding the history of the CBL on the proposed bikeway segment. Their request to leave the wooden ties in situ has not been implemented. This situation is considered unsafe and presents significant safety issues for future users of the bike path because the wooden ties are in various states of deterioration and are expected to continue to deteriorate. If the ties were to remain in place the bike path would be expected to experience surface pavement deterioration (potholes, cracks, and surface level changes) over time, as the ties continue to deteriorate and crumble under the bike path surface, creating voids under the bike path users and an uneven path surface.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

- City of San Diego Engineering and Capital Project Department, Applicant
- MTS/SD&AE, Owner
- M&E Gabae, CLP, Owner
- South Bay Salt Works, Lessee
- Har Construction, Inc.
- Adkan Engineers
- JCF BRIDGE & CONCRETE
- JD PAVING
- LSI
- MTGL Incorporated
- San Diego Erosion Control
- Varanus (Biological) Monitoring Services

Boekamp/Haas/PG

LEGAL DESCRIPTION:

The proposed project is located in the northern portion of the Otay Mesa-Nestor Community Plan Area, west of Interstate 5, and is bordered by the City of Imperial Beach to the west and south, and the City of Chula Vista to the north.

Staff: Patricia Grabski – (619) 446-5277
Frank Gaines – (619) 533-3771
Peter Mesich – Deputy City Attorney
Andrea Contreras Dixon – Deputy City Attorney

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

FILE LOCATION: SUBITEMS A, B: MEET
SUBITEM C: CONT-HAR CONSTRUCTION, INC.
SUBITEM D: F-10152
COUNCIL ACTION: (Time duration: 2:04 p.m. – 3:10 p.m.)

Testimony in favor of the item by Dennis Landaal, Jennifer Quijano, Stephan Vance, Kathy Keehan, Joy Sunyata, Andrew Yuen, Gordy Shields, and Greg Cox.

Testimony in opposition of the item by Bruce Coons and Katheryn Rhodes.

MOTION BY HUESO TO ADOPT THE RESOLUTION IN SUBITEM A TO CERTIFY ENVIRONMENTAL IMPACT REPORT NO. 1901; ADOPT THE RESOLUTION IN SUBITEM B TO GRANT SITE DEVELOPMENT PERMIT NO. 3276; ADOPT THE RESOLUTION IN SUBITEM C TO AUTHORIZE THE EASEMENT DEED; AND ADOPT THE RESOLUTION IN SUBITEM D TO AUTHORIZE THE LICENSING AGREEMENT WITH METROPOLITAN TRANSIT SYSTEM AND SD&E RAILROAD . Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

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

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

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:24 a.m. – 10:25 a.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 6:10 p.m. in honor of the memory of:

Prudy Wood at the request of Council Member Frye; and
Tamam Hasenin at the request of Council President Peters.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:06 p.m. – 6:10 p.m.)