

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

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Council President Peters at 10:05 a.m. with all Council Members present. Council President Peters recessed the meeting at 11:14 a.m. for the purpose of a break. Council President Peters reconvened the meeting at 11:20 a.m. with Council Member Hueso not present. The meeting was recessed by Council President Peters at 11:56 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:04 p.m. with all Council Members present. Council President Peters recessed the regular meeting at 2:36 p.m. to convene the Redevelopment Agency and thereafter to reconvene the regular meeting with all Council Members present. Council President Peters recessed the meeting at 3:38 p.m. to convene the Housing Authority. Council President Peters reconvened the regular meeting at 3:39 p.m. with Council Member Hueso not present. Council President Peters recessed the meeting at 3:40 p.m. to reconvene the Redevelopment Agency and thereafter to reconvene the regular meeting with Council Member Hueso not present. Council President Peters recessed the meeting at 3:46 p.m. to convene a Special Meeting of the Redevelopment Agency. Council President Peters reconvened the regular meeting at 4:27 p.m. with Council President Pro Tem Young not present and thereafter recessed the meeting for the purpose of a break. Council President Peters reconvened the meeting at 4:36 p.m. with Council President Pro Tem Young not present. The meeting was adjourned by Council President Peters at 6:18 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: 10:32 a.m. – 10:35 a.m.)

**PUBLIC COMMENT-2:**

Sunshine Horton commented on alcohol abuse.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:35 a.m. - 10:38 a.m.)

**PUBLIC COMMENT-3:**

Conrad Hartsell commented on the Bayshore Bikeway Project.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:41 a.m.)

**PUBLIC COMMENT-4:**

Katheryn Rhodes commented on the Navy Broadway Complex.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. - 10:44 a.m.)

**PUBLIC COMMENT-5:**

Gloria Hanson commented on the Mission Valley Village Mobile Home Park.

FILE LOCATION: AGENDA

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

**PUBLIC COMMENT-6:**

Elinor Rector commented on San Diego government.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. - 10:50 a.m.)

**PUBLIC COMMENT-7:**

James Justus commented on a location for the winter homeless shelter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:50 a.m. - 10:52 a.m.)

**PUBLIC COMMENT-8:**

Mignon Scherer commented on global warming.

FILE LOCATION: AGENDA

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

**PUBLIC COMMENT-9:**

Kathy Myking commented on common law marriage.

FILE LOCATION: AGENDA

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

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council President Pro Tem Young congratulated Lincoln High School on their Proclamation.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:21 a.m. – 10:23 a.m.)

COUNCIL COMMENT-2:

Council Member Frye commented on the Sunroad project with regard to an Order to Comply.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:23 a.m. - 10:24 a.m.)

COUNCIL COMMENT-3:

Council Member Hueso commented on his involvement with Athletes for Education to build more awareness against childhood obesity and diabetes. He also announced he will swim a one-mile stretch at San Diego Bay to raise money to combat this cause.

FILE LOCATION: MINUTES

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

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

MAYOR COMMENT:

Mayor Sanders gave an update regarding the landslide in La Jolla. He assured that they are restoring utility services and access to as many homes as possible and assisting residents whose homes have been directly affected to recover personal items with the help of City escorts.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:59 a.m. – 11:08 a.m.)



ITEM-30: Promote La Jolla Incorporated Day.

**COUNCIL PRESIDENT PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-251) ADOPTED AS RESOLUTION R-303050

Commending Promote La Jolla Inc. for its substantial contributions to San Diego;

Proclaiming Tuesday, October 9, 2007, to be “Promote La Jolla, Inc. Day” in the City of San Diego in celebration of 20 years of dedicated service to the community and in support of businesses in the village.

FILE LOCATION: AGENDA

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

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



[ITEM-31:](#) Michael Brunker Day.

**COUNCIL PRESIDENT PRO TEM YOUNG’S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-194) ADOPTED AS RESOLUTION R-303051

Proclaiming October 9, 2007 to be “Michael Brunker Day” in the City of San Diego in appreciation for his dedication to Council District 4.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:09 a.m. – 10:15 a.m.)

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



[ITEM-32:](#) The Institute of Violence, Abuse, and Trauma Day.

**COUNCIL MEMBER MAIENSCHIEIN’S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-202) ADOPTED AS RESOLUTION R-303052

Proclaiming October 9, 2007 to be “The Institute of Violence, Abuse, and Trauma Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:15 a.m. – 10:20 a.m.)

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

- \* ITEM-50: Installation of Angle Parking on 15<sup>th</sup> Street Between Broadway and "E" Streets.  
(Centre City Community Area. District 2.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 9/25/2007, Item 51. (Council voted 8-0):

(O-2008-25)                      ADOPTED AS ORDINANCE O-19667 (New Series)

Authorizing the creation of an angle parking zone on 15<sup>th</sup> Street between Broadway and "E" Streets, pursuant to the authority conferred by and in accordance with the provisions of California Vehicle Code Section 22503 and the San Diego Municipal Code Section 86.03;

Authorizing the installation of the necessary signs and markings to be made on said street, and the regulations hereinabove imposed shall become effective upon the installation of such signs;

Authorizing the expenditure of \$3,615 for the installation of angle parking on 15<sup>th</sup> Street between Broadway and "E" Streets, solely and exclusively, for this Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer.

FILE LOCATION:                      MEET

COUNCIL ACTION:                      (Time duration: 10:26 a.m. – 10:30 a.m.)

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

- \* ITEM-51: Installation of Angle Parking on the East Side of San Diego Avenue Between West Washington Street and India Street. (Uptown Community Area. District 2.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 9/25/2007, Item 52. (Council voted 7-0. Councilmember Hueso not present):

(O-2008-23)                      ADOPTED AS ORDINANCE O-19668 (New Series)

Authorizing the creation of an angle parking zone on the east side of San Diego Avenue between West Washington Street and India Street, pursuant to the authority conferred by and in accordance with the provisions of California Vehicle Code Section 22503 and the San Diego Municipal Code Section 86.03;

Authorizing the installation of the necessary signs and markings to be made on said street, and the regulations hereinabove imposed shall become effective upon the installation of such signs;

Authorizing the expenditure of \$8,932 for the installation of angle parking on the east side of San Diego Avenue between West Washington Street and India Street, solely and exclusively, for this Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Declaring that this activity is exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301.

FILE LOCATION:                      MEET

COUNCIL ACTION:                      (Time duration: 10:26 a.m. – 10:30 a.m.)

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

- \* ITEM-52: Installation of Angle Parking on West Side of Kettner Boulevard Between Kalmia Street and Ivy Street. (Centre City Community Area. District 2.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 9/25/2007, Item 53. (Council voted 7-0. Councilmember Hueso not present):

(O-2008-26)                      ADOPTED AS ORDINANCE O-19669 (New Series)

Authorizing the creation of an angle parking zone on the west side of Kettner Boulevard between Kalmia Street and Ivy Street, pursuant to the authority conferred by and in accordance with the provisions of California Vehicle Code Section 22503 and the San Diego Municipal Code Section 86.03;

Authorizing the installation of the necessary signs and markings to be made on said street, and the regulations hereinabove imposed shall become effective upon the installation of such signs;

Authorizing the expenditure of \$2,453 for the installation of angle parking on the west side of Kettner Boulevard between Kalmia Street and Ivy Street, solely and exclusively, for this Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer.

FILE LOCATION:                      MEET

COUNCIL ACTION:                      (Time duration: 10:26 a.m. – 10:30 a.m.)

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



ITEM-53: 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.)

(Continued from the meeting of 9/18/2007, Item 52, at the request of Mayor Sanders, for further review.)

**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 2) CONTINUED TO TUESDAY,  
OCTOBER 16, 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 purpose 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 that 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).

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

**FILE LOCATION:** NONE

**COUNCIL ACTION:** (Time duration: 11:31 a.m. - 11:35 a.m.  
2:04 p.m. - 2:35 p.m.)

MOTION BY FAULCONER TO CONTINUE TO TUESDAY, OCTOBER 16, 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-54: Amending the San Diego Municipal Code by Adding Section 54.0110 Entitled "Unauthorized Encroachments Prohibited". (Citywide.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 9/25/2007, Item 54. (Council voted 7-0. Councilmember Hueso not present):

(O-2008-3) ADOPTED AS ORDINANCE O-19670 (New Series)

Amending Chapter 5, Article 4, Division 1, of the San Diego Municipal Code by adding Section 54.0110 entitled "Unauthorized Encroachments Prohibited", relating to prohibiting unauthorized encroachments on public property or in the public right-of-way;

Declaring that the above activity is not a project and therefore is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(3).

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 10:26 a.m. – 10:30 a.m.)

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

\* ITEM-55: Establishment of Past Grand Jurors Association Implementation Review Board.

(See Independent Budget Analyst Report Nos. 07-86 [not available at the Committee] and 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].)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced as amended on 9/18/2007, Item 331. (Council voted 8-0):

(O-2007-135 Rev.) ADOPTED AS ORDINANCE O-19671 (New Series)

Amending Chapter 2, Article 6, of the San Diego Municipal Code by adding Division 21, 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.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:30 a.m.)

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

\* ITEM-56: Settlement of Binding Arbitration Award in Favor of the San Diego Chargers.

(See Independent Budget Analyst Report No. 07-89.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 9/24/2007, Item 202. (Council voted 8-0):

(O-2008-31) ADOPTED AS ORDINANCE O-19672 (New Series)

Amending Ordinance No. O-19652 (New Series) entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 2007-2008 and Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year," by authorizing the City Auditor and Comptroller to appropriate and to transfer up to \$1,980,339.60 from the City's General Fund Unallocated Reserve to the Public Liability Fund to pay an arbitration settlement with the San Diego Chargers.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:30 a.m.)

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



ITEM-57: Amendment to the Election Campaign Control Ordinance.

(See memorandum from Guillermo Cabrera and Stacey Fulhorst dated 9/25/2007.)

**ETHICS COMMISSION'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2008-32)                   INTRODUCED, TO BE ADOPTED ON  
TUESDAY, OCTOBER 20, 2007

Introduction of an Ordinance amending Chapter 2, Article 7, Division 29 of the San Diego Municipal Code by amending Section 27.2930, relating to the Election Campaign Control Ordinance.

**SUPPORTING INFORMATION:**

The proposed amendment to the Election Campaign Control Ordinance is discussed in the memorandum from the Ethics Commission Chair and Executive Director dated September 25, 2007, and reflected in the strike-out version of the ordinance. The proposed amendment would require candidates and committees to disclose the cumulative amount of contributions received from each contributor for each election. Although this express requirement does not currently exist, virtually all candidates and committees already report this information on campaign disclosure statements.

**FISCAL CONSIDERATIONS:** None.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

None. Council President Peters determined that it was not necessary for this item to be considered by the City Council Rules Committee before it was heard by the full City Council.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

Public discussion at the Ethics Commission meeting on September 13, 2007.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Candidates and committees that file campaign statements with the City Clerk reflecting activity association with City of San Diego elections.

Fulhorst 1

**FILE LOCATION:** NONE

**COUNCIL ACTION:** (Time duration: 11:21 a.m. – 11:29 a.m.)

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

- \* ITEM-100: Inviting Bids for the Construction of Miramar Water Treatment Plant Upgrade and Expansion – Contract C Project. (Miramar Ranch Community Area. District 5.)

(See Water Department’s Executive Summary Sheet dated 6/7/2007; Water Department’s 6/20/2007 PowerPoint.)

**TODAY’S ACTION IS:**

Adopt the following resolution:

(R-2008-196)                      ADOPTED AS RESOLUTION R-303053

Approving the plans and specifications for the construction of Miramar Water Treatment Plant Upgrade and Expansion - Contract C (Project), on Work Order No. 189011;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to establish funding phases and execute a construction contract for the Project to the lowest responsible and reliable bidder in an amount not to exceed \$27,800,000, 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 expenditure of an amount not to exceed \$27,800,000 from Water Fund 41500, CIP-73-284.0, for construction, contingency and Project related costs, 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 use of City Forces from Water Fund 41500, CIP-73-284.0, Miramar Water Treatment Plant Upgrade and Expansion – Contract C in the amount not to exceed \$400,000 for coordinating and effecting operational changes and Miramar Water Treatment Plant shut-down during construction of the Project;

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

Declaring that this activity is adequately addressed in EIR No. 99-0704, for the Project and there is no change in circumstance, additional information, or Project changes to warrant additional environmental review and that this activity is not a separate Project for purposes of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378(c). (BID-K083890)

**NATURAL RESOURCES AND CULTURE COMMITTEE’S RECOMMENDATION:**

On 6/20/2007, NR&C voted 3 to 0 to approve. (Councilmembers Faulconer, Maienschein, and Frye voted yea. Councilmember Hueso not present.)

**SUPPORTING INFORMATION:**

As a part of the Water Department Capital Improvements Program, the Miramar Water Treatment Plant (WTP) is scheduled for expansion from the current capacity of 140 million gallons per day (MGD) to 215 MGD to meet the water demand of its service area. In addition to increasing treatment capacity, the facility will upgrade the treatment processes. This will improve operation and maintenance at the facility, and will meet the new drinking water standards set by the U.S. Environmental Protection Agency and included in the California Department of Health Services (DHS) Compliance Order (04-14-96CO-022) items # 89 and 90. Failure to meet the DHS Compliance Order dales may result in fines levied against the City of San Diego.

This phase of the Miramar WTP project (Contract C) is covered under a Resource Protection Ordinance (RPO) Permit No. 99 0704 and Final Program EIR (LDR No. 99-0704), which was approved and certified by City Council on March 13, 2002.

Contract C represents the fifth of six components of the Miramar WTP Upgrade & Expansion project. It consists of Ozone Equipment furnishing and installation. After completion of Contract C, Ozone will be added to settled water (after sedimentation, but prior to filtration) to achieve primary disinfection credit and reduce the formation of disinfection by-products.

The requested action is to approve plans and specifications for the construction of Miramar WTP Upgrade and Expansion - Contract C as advertised by contract services and authorize the expenditure of \$27,800,000. Construction is anticipated to begin in fall of 2007, and complete by fall of 2010.

City Forces will be utilized on this project for coordinating and effecting operational changes and Miramar WTP shut-down during construction. The work scope also includes closing and opening large diameter valves, monitoring flow in the existing clearwells and day to day coordination with the project team. Their knowledge, experience and participation on the project are essential to the success of the project. The cost for this work is estimated at \$400,000 for the duration of the project.

**FISCAL CONSIDERATIONS:**

The total cost for Miramar WTP Upgrade and Expansion - Contract C is \$27,800,000.

The project will be phase funded in FY 2008, 2009 and 2010. The Water Department expects to reimburse 80% of the costs for FY 2008 - FY 2010 (\$22,240,000) from future debt issuances. The Miramar Water Treatment Plant Upgrade and Expansion is one of the CIP projects the Water Department will fund with revenues generated by the rate increases approved by the City Council on February 26, 2007. The Auditor's Certificate will be issued prior to contract award.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

This item was approved by the Natural Resources & Culture Committee on 6/20/2007.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The City of San Diego Water Department has partnered with the community since the start of the Miramar Water Treatment Plant (MWTP) Upgrade and Expansion Project. In 1999, the Water Department worked with community members to form the Miramar Water Treatment Plant Community Advisory Group (CAG), which is comprised of area residents living and working in the area to help mitigate project impacts. Regular CAG meetings are held to provide project updates and discuss various concerns. Smaller meetings and phone conferences are also held with other nearby residents to address any pertinent issues. In addition, a CIP Hotline is regularly maintained to answer any questions and provide any information to the public. Door hangers, fact sheets, MWTP WaterWorks newsletters, and updates on the City of San Diego Web site and community newsletters also add to outreach efforts on behalf of the project.

**KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):**

Citywide Water Customers, CDM, Inc. (Design Consultant), MWH (Construction Management Consultant), Scripps Ranch Community Advisory Group, San Diego County Water Authority and California Department of Health Services.

Barrett/Haas

**FILE LOCATION:** W.O. - 189011

**COUNCIL ACTION:** (Time duration: 10:26 a.m. – 10:30 a.m.)

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

\* ITEM-101: Inviting Bids and Awarding Contract for the Palm Avenue Accelerated Sewer. (Otay Mesa-Nestor Community Area. District 8.)

(See Engineering and Capital Projects' Executive Summary Sheet dated 6/13/2007.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2007-1282) ADOPTED AS RESOLUTION R-303054

Approving the plans and specifications for the construction of Palm Avenue Accelerated Sewer Replacement Project on Work Order No. 177771;

Authorizing the Mayor or his designee, that after advertising for bids in accordance with law, to award the Project contract to the lowest responsible and reliable bidder for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for the expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to transfer \$2,369,485, from Sewer Fund 41506, CIP-46-106.0, Annual Allocation – Pump Station Restoration and \$100,000 from CIP-46-194.0, Annual Allocation – Trunk Sewer Rehabilitations to Sewer Fund 41506, CIP-46-206.0, Annual Allocation – Accelerated Projects;

Authorizing the expenditure of an amount not to exceed \$2,805,985 from Sewer Fund 41506, CIP-46-206.0, Annual Allocation – Accelerated Projects, for the construction, contingency, and Project related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

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

Declaring that this activity is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15282(k) as the repair and replacement of an existing pipeline less than one mile in length. (BID-K084020CA)

**NATURAL RESOURCES AND CULTURE COMMITTEE’S RECOMMENDATION:**

On 6/20/2007, NR&C voted 3 to 0 to approve. (Councilmembers Faulconer, Maienschein, and Frye voted yea. Councilmember Hueso not present.)

**SUPPORTING INFORMATION:**

Palm Avenue Accelerated Sewer is part of the City of San Diego's continuing Annual Sewer Main Replacement Program. This project is located in the Otay Mesa/Nestor community. This project includes the replacement of approximately 1,980 linear feet of existing 10 inch vitrified clay sewer mains with 15 inch sewer mains. The streets affected by construction operations within this project are Palm Avenue from Saturn Boulevard to 16<sup>th</sup> Street as shown on the location map. Construction on Palm Avenue from Saturn Boulevard to 16th Street will be from 9:00 p.m. to 5:00 a.m., Monday through Friday, per CalTrans requirements. Traffic control plans have been prepared for Palm Avenue and approved by the City. This activity is statutorily exempt from CEQA pursuant to State CEQA Guidelines Section 15282(k).

This project was approved by Council Resolution No. R-299285, adopted June 7, 2004, for the amount of \$1,895,000. The bids exceeded the engineer's estimate and were rejected. Furthermore, due to lack of funding, this project did not move forward. We are seeking approval to proceed with this project and to authorize an amount not to exceed \$2,805,985 for the entire execution of this project.

There are insufficient funds available in the Annual Allocation - Accelerated Projects, CIP-46-206.0, for the construction of this project. This request also includes the transfer of unencumbered funds from CIP-46-106.0, Annual Allocation - Pump Station Restorations and from CIP-46-194.0, Annual Allocation - Trunk Sewer Rehabilitations, FY07 budget. Currently, there are no trunk sewers or pump stations scheduled and prepared to encumber this funding.

**FISCAL CONSIDERATIONS:**

The total estimated cost of this project is \$2,813,985. Funding of \$8,000 was previously authorized by Council (R-298365) for staff labor and other charges related to the exchange of easements required to realign the pipe. The property rights being exchanged are at no cost to either party. This action is authorizing an additional expenditure of \$2,805,985 from Sewer Fund 41506, CIP-46-206.0, Annual Allocation - Accelerated Projects for this purpose. This item provides full funding for Palm Avenue Accelerated Sewer. The project costs may be bond reimbursed approximately 80% by current or future debt financings. An Auditor's Certificate will be issued prior to contract award.

**PREVIOUS COUNCIL and/or COMMITTEE ACTIONS:**

Council approved this project as well as a previous action for labor and other acquisition costs related to the exchange of easements on June 7, 2004 (R-299285, \$1,895,000) and September 15, 2003 (R-298365, \$8,000). The Committee on Natural Resources and Culture on

**SUPPORTING INFORMATION:**

June 20, 2007, consent motion by Councilmember Faulconer, second by Councilmember Maienschein. Vote to approve 3-0.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

On October 9, 2002, Palm Avenue Accelerated Sewer project was presented to the Otay Mesa/Nestor Planning Committee. Residents and businesses will be notified at least one (1) month before construction begins by the City's Engineering Department and again, ten (10) days before construction begins by the Contractor through hand distribution of notices.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Residents and businesses in the area will encounter minor impacts during construction. After completion, residents will experience improved reliability of the sewer system.

Boekamp/Haas

Aud. Cert. 2700821.

FILE LOCATION: W.O. - 177771

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:30 a.m.)

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

- \* ITEM-102: Two actions related to Inviting Bids for the Construction of Water Group 3004. (Peninsula Community Area. District 2.)

(See Engineering and Capital Projects' 2/14/2007 Report; and Engineering and Capital Projects' 2/21/2007 PowerPoint.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2008-122) ADOPTED AS RESOLUTION R-303055

Approving the plans and specifications for the construction of Water Group 3004 (Project) as advertised by Purchasing and Contracting Department, on Work Order No. 186891/186551;

Authorizing the Mayor, or his designee, to establish contract funding phases and execute a contract with the lowest responsible and reliable bidder, provided the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit in the City Treasury;

Authorizing the expenditure of an amount not to exceed \$3,903,000 from Water Fund 41500, CIP-73-083.0, Annual Allocation - Water Main Replacement, solely for construction, contingency, and Project related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the use of City Forces from Water Fund 41500, CIP-73-083.0 Annual Allocation - Water Main Replacement for construction of Sub CIP-73-859.1, Water Group 727 in an amount not to exceed \$297,585 and Sub CIP-73-860.5, Water Group 735 in an amount not to exceed \$140,040 for a total not to exceed \$437,625 for the construction of the Project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves. (BID-K073756)

Subitem-B: (R-2008-144)

ADOPTED AS RESOLUTION R-303056

Declaring that the Addendum to a Mitigated Negative Declaration, Project No. 131604, dated July 13, 2007 (Addendum) for Water Groups 727 and 735, which are within Water Group 3004 (the Project), has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.);

Declaring that the Addendum reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Project;

Finding that revisions to the Project now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, approving Project 131604 Addendum;

Adopting 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, pursuant to California Public Resources Code section 21081.6;

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.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

Information only. No action taken.

**SUPPORTING INFORMATION:**

Water Group 3004 is part of the City of San Diego's Cast Iron Water Main Replacement Program as mandated by the Department of Health Services Compliance Order No. 04-14-96-022.

This project is located in the Peninsula area. Water Group 727 includes the replacement of approximately 5,400 linear feet of existing 8-inch and 12-inch old and deteriorated Cast Iron (CI) water mains, water services and fire hydrants originally installed in 1929. Water Group 735 includes the replacement of approximately 2,526 linear feet of existing 8-inch and 12-inch old and deteriorated Cast Iron (CI) water mains, water services and fire hydrants originally installed in 1944. Originally these projects were intended to be advertised individually. In order to expedite their construction, they have been grouped under one construction contract known as Water Group 3004. The Project also includes installing curb ramps and street slurry seal. The streets affected by construction operations are Catalina Boulevard, Chatsworth Boulevard and Garrison Street as shown on the Location map. Traffic control plans for Chatsworth Boulevard have been prepared by the City's design consultant. The Contractor will prepare traffic control plans for other streets and will implement them during construction, after review and approval by the City.

As indicated in the Engineers' Project Cost Estimate for the use of City Forces it is estimated to be more economical than if done by contract. In addition, the Department of Health Services (DHS) under the California Safe Drinking Water Act requires certified operators to perform this type of work (work on live water mains) to ensure the integrity of the water system.

**FISCAL CONSIDERATIONS:**

The total estimated cost of this project is \$3,903,000. Of the \$3,903,000 for the projects, \$726,460 will be financed with proceeds from the Subordinated Water Revenue Notes, Series 2007 A and \$2,292,160 from currently anticipated to be a follow on water revenue debt issuance

in Fiscal Year 2008. The remaining \$884,380 will be cash funded. Funding is available in Fund 41500, CIP No. 73-083.0, Annual Allocation - Water Main Replacement, for this purpose. This project is scheduled to be phased funded over FY 07 and FY 08. No additional funding is anticipated.

**PREVIOUS COUNCIL AND COMMITTEE ACTIONS:**

The subject item was presented to the Committee on Natural Resources and Culture for information only on February 21, 2007.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

During the design phase, Water Group 727 was presented to the Peninsula Community Planning Committee on September 30, 2002 and a follow up informational letter was sent on May 28, 2003. Water Group 735 was also presented to the Peninsula Community Planning Committee on June 19, 2003. Once funding has been approved, the community will be notified. Residents and businesses will be notified at least one (1) month before construction begins by the City's

**SUPPORTING INFORMATION:** (Continued)

Engineering and Capital Projects Department and again, ten (10) days before construction begins by the Contractor through hand distribution of notices.

**KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):**

Residents in the area will encounter inconveniences during construction. After completion, residents will experience improved reliability of the water distribution system. No new fees or regulations are proposed.

Boekamp/Haas

**FILE LOCATION:** W.O. - 186891/186557

**COUNCIL ACTION:** (Time duration: 10:26 a.m. – 10:30 a.m.)

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



ITEM-103: Hilltop Community Park Development. (Peñasquitos East Community Area. District 1.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-253)            ADOPTED AS RESOLUTION R-303057

Amending the Fiscal Year 2008 Capital Improvements Program Budget in CIP-29-282.1, Hilltop Community Park-Development (Project), Fund No. 10596, Rancho Peñasquitos East Trust Fund, by increasing the budget amount by \$605,056;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$605,056 from CIP-29-282.1, Hilltop Community Park-Development, Fund No.10596, Rancho Peñasquitos East Trust Fund, solely and exclusively, for the purpose of providing funds for this 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 City Auditor and Comptroller to reimburse Fund No.10596, Rancho Peñasquitos East Trust Fund, with funds from the Rancho Peñasquitos Facilities Benefits Assessment (FBA), Fund No. 79004, for the amount of funds expended, as programmed in the Rancho Peñasquitos Public Facilities Financing Plan, or as soon thereafter as FBA funds become available, for an amount not to exceed \$416,503;

Authorizing the City Auditor and Comptroller, upon availability of FBA funds for reimbursement, to increase appropriations in Fund 79004, Rancho Peñasquitos Facilities Benefits Assessment (FBA), by an amount not to exceed \$416,503 and authorizing a like deappropriation of Fund 10596, Rancho Peñasquitos East Trust Fund, CIP-29-282.1, Hilltop Community Park-Development;

Authorizing the Mayor to execute a construction contract with the lowest responsible and reliable bidder in an amount not to exceed \$1,006,600, for the

construction of Hilltop Community Park - Development, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$1,006,600 from CIP-29-282.1, Hilltop Community Park-Development, \$195,850 from Fund No. 38224, Hilltop Community Park 2002 Park Bond Roberti-Z'berg Harris, \$404,150 from Fund No. 38225, Hilltop Community Park 2002 Park Bond Per Capita, and \$406,600 from Fund No.10596, Rancho Peñasquitos East Trust Fund, for the purpose of executing a construction contract for the Hilltop Community Park, 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 budgeted funds, if any, to the appropriate reserves;

Declaring this project is categorically exempt from California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines Section 15301 (Existing Facilities).

**STAFF SUPPORTING INFORMATION:**

Hilltop Community Park - Development will improve a 2-acre portion of the existing Hilltop Community Park, located at 9711 Oviedo Way, in the Rancho Peñasquitos Community. Originally, eight tennis courts were to be located on this portion of the park, however, the courts were never constructed and now the community wishes to develop this site with additional recreational amenities including parking, open grass areas, picnic areas, shade structures, trash receptacles, children's play ground, modification of existing play ground, sitting/observation points, security lighting, irrigation systems and landscaping.

The current project budget is insufficient to award a construction contract for all park amenities desired by the community. Additional funds, \$416,503, are programmed for this project in Rancho Peñasquitos Facilities Benefits Assessment (FBA), Project 16A-Phase II, but these funds will not be available until fiscal year 2009 or later. In order to keep the project on schedule and meet community expectations, the project was bid with four (4) additive alternates which would allow the award of a construction contract for the base bid and some or all additive alternatives, depending on the bids received. Bids were opened on June 27, 2007, and the low base bid is 25% above the engineer's estimate.

To avoid re-bidding the project or putting it on hold until the additional FBA funds are available, the community wishes to transfer \$605,056 from Rancho Peñasquitos East Trust Fund to the project to complete all the planned park amenities. The Rancho Peñasquitos Planning Board approved the fund transfer at their meeting on August 1, 2007, by unanimous vote, conditional on the Trust Fund being reimbursed the \$416,503 when the funds are available in the FBA.

The \$188,553 differences will be absorbed by the Trust Fund, except any excess funds which will be returned upon project completion. The \$605,056 supplemental funds will allow the award of a construction contract including the base bid and all four additive alternatives, and maintain the current project schedule.

**FISCAL CONSIDERATIONS:**

The total project cost is estimated at \$1,431,797 of which \$826,741 has been appropriated in CIP-29-282.1; \$226,741 from Rancho Peñasquitos FBA, and \$600,000 from State Grant Prop. 40 Per Capita. The balance, \$605,056 is available from Rancho Peñasquitos East Trust Fund. The estimated annual operation and maintenance cost for the new development is \$14,000. Funding for this purpose will be from Park and Recreation Department General Fund to be budgeted starting FY-09, the year the facility is anticipated to go into operation.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

Council Resolution No. 292549, Adopted August 10, 2004, authorizing the transfer of \$530,000 from CIP-29-282.1, Hilltop Community Park - Development, Fund No. 79004, Rancho Peñasquitos FBA, to CIP-29-516.0, Rancho Peñasquitos Skate Park; and authorizing the application to the State of California for \$600,000 in Prop 40 Per Capita funds; and authorizing the appropriation and expenditure of these funds from CIP-29-282.1.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

Project design was based on extensive community input. Staff worked closely with the Rancho Peñasquitos Recreation Council members to identify the park elements that best serve the community needs for the site. The following groups reviewed and approved the project design: Rancho Peñasquitos Recreation Council (April 28, 2005), Design Review Committee (June 8, 2005), and the Park and Recreation Board (July 21, 2005). In addition, the Rancho Peñasquitos Planning Board, on August 1, 2007, participated in identifying the funding mechanism to allow the project to proceed and avoid re-bidding the project at a later date.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Rancho Peñasquitos Recreation Council  
Palm Engineering Construction  
Rancho Peñasquitos Planning Board.

Oskoui/Haas

Aud. Cert. 2800211.

Staff: Gus Buttom - (619) 533-3025  
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:30 a.m.)

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

\* ITEM-104: “Solving Cold Cases with DNA” National Institute of Justice FY 07 Grant  
Proposal.

**STAFF’S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-152) ADOPTED AS RESOLUTION R-303058

Authorizing the Chief of Police, for and on behalf of the City of San Diego, to  
submit an application for, accept, expend and manage the grant funds and  
program for the purposes stated in the application;

Declaring that this authority includes the execution of all aspects of fund and  
program operation, including any amendments, extensions, augmentations, or  
renewals from the U.S. Department of Justice for identical or closely related  
purposes; and to certify that the City will comply with all applicable statutory or  
regulatory requirements;

Declaring that this authorization shall be valid for a period of up to five years,  
provided funding for this purpose is made available by the U.S. Department of  
Justice;

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

**STAFF SUPPORTING INFORMATION:**

The U.S. Department of Justice (DOJ), National Institute of Justice (NIJ), has solicited proposals to evaluate the effect of DNA evidence on previously investigated but unsolved (cold case) homicides. SDPD staff have prepared a proposal to research, identify, review, and prioritize cold case homicides in City of San Diego cases where biological evidence exists that might assist in solving the cold case through DNA analysis. The project will utilize expert consultant and in-house staff to identify, retrieve and evaluate biological evidence from these cases, followed by DNA analysis and submission of potentially probative profiles to CODIS. The partners in this project are the San Diego Police Department (SDPD) Cold Case Homicide Team, which consists of investigators from local city, county and federal agencies; the SDPD Forensic Science Section; and the San Diego County Medical Examiner.

The proposal draws on significant in-kind contributions from partner agencies that are committed to its success and are not seeking funding for their roles. Limited funding will be used for follow up investigative purposes that fall within the scope of this solicitation.

It is anticipated that this project will result in full review of approximately 60 cases; identification of 25-50 potentially solvable cases; and resolution of approximately 12 cases. The proposal requests \$374,907, which will fund an SDPD consultant, overtime for Homicide Detectives and Criminalists, as well as equipment necessary to carry out the project.

**FISCAL CONSIDERATIONS:** There is no requirement for matching funds, nor to continue grant program operations or expenditures after grant funding is exhausted.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:** NA

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** NA

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:** Stakeholder Consultant will be selected by competitive bid if SDPD is selected by NIJ for funding.

Lansdowne/Olen

Staff: Donna Warlick - (619) 531-2221  
John C. Hemmerling - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:30 a.m.)

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



ITEM-105: Amendments to the Ethics Commission Audit Manual.

(See memorandum from Guillermo Cabrera and Stacey Fulhorst dated 9/25/2007.)

**ETHICS COMMISSION'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-260) ADOPTED AS RESOLUTION R-303059

Declaring that the City Council approves the newly revised City of San Diego Ethics Commission Audit Manual for use by the Ethics Commission

**STAFF SUPPORTING INFORMATION:**

The proposed amendments to the Ethics Commission Audit Manual are outlined in the memorandum from the Ethics Commission Chair and Executive Director dated September 25, 2007, as well as the strike-out version of the Audit Manual. There is also a clean version of the proposed Audit Manual without markup. The proposed amendments are purely housekeeping in nature and will not change the Commission's auditing procedures in any substantial manner.

FISCAL CONSIDERATIONS: None.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

None. Council President Peters determined that it was not necessary for this item to be considered by the City Council Rules Committee before it was heard by the full City Council.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Public discussion at the Ethics Commission meeting on August 9, 2007.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Candidate and ballot measure committees in City of San Diego elections that may be selected for audit at a random drawing.

Fulhorst

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:22 a.m. – 11:30 a.m.)

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

\* ITEM-106: Appointments and Reappointments to the Commission on Gang Prevention and Intervention.

(See memorandum from Mayor Sanders dated 9/10/2007.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-231) ADOPTED AS RESOLUTION R-303060

Appointments and reappointments by the Mayor of the City of San Diego, to serve as members of the City of San Diego Commission on Gang Prevention and Intervention, for a term ending as indicated:

| <u>NAME</u>   | <u>CATEGORY</u>      | <u>TERM ENDING</u> |
|---|----------------------|--------------------|
| Fred Sotelo<br>(Golden Hill, District 3)<br>(Replacing Michael Sise,<br>who resigned) | District 2<br>Member | July 1, 2009       |

|   |                      |              |
|---|----------------------|--------------|
| Victor Torres<br>(Rancho Peñasquitos, District 1)<br>(Replacing Marilyn Stewart,<br>who resigned) | District 1<br>Member | July 1, 2009 |
| Reverend Harry Cooper<br>(Spring Valley)<br>(Reappointment)                                       | District 4<br>Member | July 1, 2009 |
| Alicia De Leon Torres<br>(South Park, District 3)<br>(Reappointment)                              | District 5<br>Member | July 1, 2009 |
| Eugene Johnson<br>(Skyline, District 4)<br>(Reappointment)  | District 7<br>Member | July 1, 2009 |
| Scott Silverman<br>(La Jolla, District 1)<br>(Reappointment)                                      | District 3<br>Member | July 1, 2009 |
| Christopher Yanov<br>(Golden Hill, District 8)<br>(Reappointment)                                 | District 8<br>Member | July 1, 2009 |

Declaring that pursuant to Council Policy 000-13, for purposes of deliberation and consideration of reappointment, it is determined that Reverend Harry Cooper is a resident of San Diego County, but not the City of San Diego, and has unique qualifications to serve as a member of the Commission; therefore, a conscious exception to Council Policy 000-13 is declared.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:30 a.m.)

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

\* ITEM-107: Appointments to the Board of Building Appeals and Advisors.

(See memorandum from Mayor Sanders dated 9/14/2007.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-234) ADOPTED AS RESOLUTION R-303061

Confirming the appointments by the Mayor of the City of San Diego, to serve as members of the Board of Building Appeals and Advisors, for terms ending as indicated:

| <b><u>NAMES</u></b>  | <b><u>CATEGORY</u></b> | <b><u>TERM ENDING</u></b> |
|--|------------------------|---------------------------|
| Frank Landry<br>(College Area, District 1)<br>(Replacing Arturo Castro,<br>who is termed out.) | Architect              | March 1, 2008             |
| Ali Sadre<br>(La Jolla, District 1)<br>(Replacing Jean Marie Libby,<br>who is termed out.)     | Structural Engineer    | March 1, 2008             |

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 10:26 a.m. – 10:30 a.m.)

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

\* ITEM-108: Lincoln High School Day.

**COUNCIL PRESIDENT PRO TEM YOUNG'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-218)            ADOPTED AS RESOLUTION R-303062

Proclaiming September 29, 2007 to be "Lincoln High School Day" in the City of San Diego in honor of inspiring work of the students, faculty, volunteers and supporters of Abraham Lincoln High School.

FILE LOCATION:            AGENDA

COUNCIL ACTION:            (Time duration: 10:26 a.m. – 10:30 a.m.)

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

\* ITEM-109: 3<sup>rd</sup> Annual Filipino-American Arts and Culture Festival Day.

**COUNCIL PRESIDENT PRO TEM YOUNG'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-201)            ADOPTED AS RESOLUTION R-303063

Proclaiming October 6, 2007, to be the "3<sup>rd</sup> Annual Filipino-American Arts and Culture Festival Day" in the City of San Diego.

FILE LOCATION:            AGENDA

COUNCIL ACTION:            (Time duration: 10:26 a.m. – 10:30 a.m.)

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

\* ITEM-110: Rideshare Week 2007.

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

Adopt the following resolution:

(R-2008-226)            ADOPTED AS RESOLUTION R-303064

Proclaiming October 1 through October 5, 2007, to be "Rideshare Week 2007" in the City of San Diego and encouraging employers to offer alternatives to driving alone by providing employees transportation options via the commuting program and encouraging their commuters to do their part to help reduce traffic congestion on the San Diego regional streets and highways.

FILE LOCATION:            AGENDA

COUNCIL ACTION:            (Time duration: 10:26 a.m. – 10:30 a.m.)

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

\* ITEM-111: Deaf Awareness Day.

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-222)            ADOPTED AS RESOLUTION R-303065

Proclaiming September 29, 2007, to be "Deaf Awareness Day" in the City of San Diego and commending Deaf Community Services of San Diego and recognizing the Deaf and Hard of Hearing community as a valuable cultural and linguistic group.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:30 a.m.)

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

\* ITEM-112: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (District 8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2007-1215) ADOPTED AS RESOLUTION R-303066

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: 10:26 a.m. – 10:30 a.m.)

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

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

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2007-1234)            ADOPTED AS RESOLUTION R-303067

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: 10:26 a.m. – 10:30 a.m.)

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



ITEM-330: Amendment to the Statement of Fiscal Year 2008 Budgetary Principles.

(See Independent Budget Analyst Report No. 07-94.)

**INDEPENDENT BUDGET ANALYST'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-255)            CONTINUED TO TUESDAY, OCTOBER 16, 2007

Endorsing and accepting the Independent Budget Analyst Report No. 07-81, including the Amended Statement of Fiscal Year 2008 Budgetary Principles.

FILE LOCATION:            NONE

COUNCIL ACTION:            (Time duration: 4:36 p.m. – 4:36 p.m.)

MOTION BY MADAFFER TO CONTINUE TO TUESDAY, OCTOBER 16, 2007, FOR FURTHER REVIEW. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-not present, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-331: Lease Agreement with Seaforth Sportfishing Corporation.  
(Mission Bay Park Community Area. District 2.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-206) ADOPTED AS RESOLUTION R-303068

Authorizing the Mayor to execute the new 40-year lease agreement with Seaforth Sportfishing Corporation, a California corporation;

Stating for the record that the final Mitigated Negative Declaration has been reviewed and considered prior to approving the project.

**STAFF SUPPORTING INFORMATION:**

The Seaforth Sportfishing Corporation is the current lessee of the City-owned property at 1717 Quivira Road, located south-west of the Hyatt Islandia Hotel and Marina in Mission Bay Park. The leasehold comprises approximately 8.995 acres of water and 6.317 acres of land.

The original 25-year lease was executed with Quivira Development Corporation on August 29, 1959, for the development, operation and maintenance of a sports fishing headquarters and marina. The lease was renewed on May 1, 1981, for a term of 30 years. The lease was amended on April 21, 1986, when the term was extended to 40 years, in consideration for new percentage rent categories, increases in the percentages of existing rent categories, an increase of the "minimum rent" and redevelopment of the water area of the premises. The lease was amended again on May 22, 1989, to include an additional percentage rent category. The lease is scheduled to expire on April 30, 2021.

The current leasehold houses three major operations. The first, a sport fishing facility, with a 4,000 sq. ft. building, which serves as the charter/sales office and includes a hot food restaurant. Currently, there are fifteen charter boats docked at this facility. The second component, a pleasure craft marina, with a 8,816 sq. ft. building, which serves as the marina and sales office. The pleasure craft marina is capable of docking 250 boats.

The third operation is a boat rental facility, with a 3,432 sq. ft. building, which serves as the rental office and a pier that can accommodate 70 rental water crafts. In addition, approximately 416 parking spaces service the three operations.

The City received annual rent in the previous three years of:

\$733,753 in FY07

\$630,335 in FY06

\$625,975 in FY05

**DISCUSSION:**

The lessee has proposed a substantial, phased redevelopment of the entire leasehold. The first phase that was completed in 2006 included the demolition and replacement of the sport fishing dock; demolition, new construction and/or refurbishment of the five main piers and perimeter dock within the pleasure craft marina; and, installation of new electrical service, domestic water service and fire suppression systems for the docks in both the sport fishing facility and the pleasure craft marina. The total cost of the first phase is \$1,540,000.

The second phase of the redevelopment is scheduled to commence in October 2007 and be completed in May 2008. The second phase will include the demolition of three existing buildings constructed in 1968 totaling 16,248 sq. ft. and replace them with three new buildings totaling 10,400 sq. ft., construction of 8-foot wide bike path and 4-foot wide landscape island to separate the existing promenade from the bike path, complete redesign of the parking with installation of a new storm drain system containing three water/oil separators and additional 61 parking spaces, installation of 45 light pedestals to illuminate the promenade and parking area closest to the water. The total cost of this phase of development is \$4,000,000. The second phase of the proposed development brings the leasehold into conformance with the requirements of the Mission Bay Park Master Plan and does not include any expansion of the leasehold boundaries or change in permitted uses.

To facilitate the redevelopment of the leasehold, a new 40-year lease has been negotiated to enable the lessee to amortize its costs of providing the improvements. The length of the lease is also comparable to the economic life expectancy of the new improvements. The proposed new lease includes current market percentage rental rates, as determined by an independent appraisal. Percentage rental rates will be reappraised and adjusted to market every ten years during the term.

**FISCAL CONSIDERATIONS:**

Approval of the lease agreement will result in increased revenue due to anticipated improvement in the lessee's business performance resulting from the redevelopment of the leasehold. The annual minimum rent in the new lease has been increased to \$531,764 from the current minimum rent of \$328,087 and will be adjusted every 5 years.

Based upon projected income and the percentage rental rates, it is anticipated that the new rental rate structure will generate in excess of \$3,077,822 through the term of the existing lease expiring in 2021, and an additional \$39,818,249 during the extended term expiring in 2047.

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

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

On October 12, 2004, the development of the leasehold was approved by the Mission Bay Park Committee. On November 10, 2004, the conceptual design of the development was approved by the Park and Recreation Design Review Committee. On December 7, 2005, the development permit was obtained from the City Development Department. On April 12, 2006, the Coastal Permit was obtained from the Coastal Commission.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Key stakeholders - Mission Bay Park Lessees Association, Mission Bay Park Committee, Seaforth Sportfishing Corporation.

Barwick/Murray

Staff: James Barwick - (619) 236-6145  
Todd Bradley - Deputy City Attorney

**FILE LOCATION:** LEAS - Seaforth Sportfishing Corporation

**COUNCIL ACTION:** (Time duration: 11:35 a.m. - 11:56 a.m.  
2:36 p.m. - 2:49 p.m.)

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

ITEM-332: Inviting Bids for the Alvarado Water Treatment Plant Upgrade and Expansion Ozone Project. (Navajo Community Area. District 7.)

(See Report to the City Council No. 07-152; Water Department Executive Summary Sheet dated July 3, 2007; and Water Department's July 18, 2007, PowerPoint.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-215)                      RETURNED TO MAYOR

Approving the plans and specifications for the construction of Alvarado Water Treatment Plant Upgrade and Expansion - Ozone Project (Project);

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to establish funding phases and execute a construction contract for the Project with the lowest responsible and reliable bidder in an amount not to exceed \$64,075,000, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$64,075,000, of which \$61,875,000 is for construction and Project related costs from Water Fund 41500, CIP-73-261.3, Alvarado Water Treat Plant Upgrade and Expansion-Ozone Project, and \$2,200,000 from Water Fund 41500, CIP-73-331.0, Annual Allocation - Water Pooled Contingency for the purpose of providing funds for Project contingency related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that funds necessary for expenditure under established contract phases are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$64,075,000 from Water Fund 41500, CIP-73-261.3, Alvarado Water Treat Plant Upgrade and Expansion-Ozone Project and \$2,200,000 from Water Fund 41500, CIP-73-331.0, Annual Allocation - Water Pooled Contingency, solely and exclusively, for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the use of City Force Work in Water Fund 41500, CIP-73-261.3, Alvarado Water Treatment Plant Upgrade and Expansion – Ozone Project in an amount not to exceed \$700,000 solely and exclusively for coordinating and effecting operational changes and Alvarado Water Treatment Plant shut-down during construction of the Project;

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

Finding that this activity is adequately addressed in EIR No. 98-0130, for the Alvarado Water Treatment Plant Upgrade and Expansion-Ozone Project and there is no change in circumstance, additional information, or project changes to warrant additional environmental review and that this activity is not a separate project for purposes of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378(c).

**NATURAL RESOURCES AND CULTURE COMMITTEE’S RECOMMENDATION:**

On 7/18/2007, NR&C forward to the full City Council without a recommendation.

**SUPPORTING INFORMATION:**

As part of the Water Department Capital Improvements Program, the Alvarado Water Treatment Plant (AWTP) is undergoing an upgrade and expansion to increase its treatment capacity as well as provide infrastructure improvements to address new Federal Drinking Water Standards, and improve the operations and maintenance at the facility.

The Ozone Project is the fourth phase of the AWTP Upgrade & Expansion which consists of construction of a new ozone building and associated ozone contractors and all equipment. The AWTP currently uses free chlorine as the primary disinfectant which tends to create disinfection by-products that may exceed future primary drinking water standards for total trihalomethanes.

The Ozone process will provide an added improvement to the treated water and enhance its taste and odor. After completion of the Ozone Project, Ozone will be added to the settled water to achieve primary disinfection and reduce the formation of disinfection by-products.

The requested action is to approve the plans and specifications for the construction of the AWTP Upgrade and Expansion - Ozone Project as advertised by contract services and authorize the expenditure of \$64,075,000. Construction is anticipated to begin in early 2008, and complete by winter of 2010.

This project will meet the new drinking water standards set by the U.S. Environmental Protection Agency and included in the California Department of Public Health Compliance Order (04-14-96CO-022). In order to comply with the Compliance Order, construction of these improvements must complete by December 31, 2010.

The City of San Diego, as Lead Agency under the California Environmental Quality Act, has reviewed and considered the Addendum, LDR No. 98-0130, dated May 20, 1994, covering the AWTP Upgrade and Expansion, adopted on June 29, 1998, R-290389, to the Alvarado Water Filtration Plant Expansion and Rehabilitation EIR, DEP No. 88-0459, dated May 20, 1994 and adopted on June 29, 1998, R-290389.

City Forces will be utilized on this project for coordinating and effecting operational changes and difficult plant shutdown during construction, while maintaining continuous service to the City of San Diego customers. The work scope also includes closing and opening large diameter valves, monitoring flow in the existing clear wells and day to day coordination with the project team. Their knowledge, experience and participation on the project is essential to the success of the project. The cost for this work is estimated at \$700,000 for the duration of the project.

**FISCAL CONSIDERATIONS:**

The total cost for the AWTP Upgrade and Expansion - Ozone Project is \$65,275,113 of which \$1,200,113 was previously authorized. The remaining cost of this project is \$64,075,000 and will be phase funded in FY 2008 in the amount of \$11,507,000, FY 2009 in the amount of \$27,300,000, FY 2010 in the amount of \$25,268,000.

The AWTP - Ozone Project is among one of the CIP projects the Water Department will fund with revenues generated by the rate increases approved by the City Council on February 26, 2007. The Water Department expects to reimburse 80% of the cost for FY 2008 (\$9,205,600), FY 2009 (\$21,840,000) and FY 2010 (\$20,214,400) from future debt issuances. Funding for the Project is available from the Water Fund 41500, CIP No. 73-261.3, AWTP Upgrade and Expansion - Ozone Project. The Auditor's Certificate for Phase I (FY2008) construction will be issued prior to contract award.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Council Resolution R-298186 authorized Advertise & Award of Construction to the lowest bidder for AWTP - Phase II which originally included the Ozone building. The Ozone building component of this project was removed from Phase II because bids were higher than budgeted. The Ozone package was presented at the Natural Resources & Culture Committee (NR&C) on July 18, 2007. This item was forwarded to the City Council without a recommendation.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Community meetings have been conducted to inform members of the public, including the Friends of Lake Murray, Mission Trails Regional Park Citizen's Advisory Committee (CAC) and Task Force (TF), and local residents about the scope and schedule of the AWTP Upgrade and Expansion Project. A CIP hotline is regularly maintained to answer questions and provide information to the public. Door hangers, fact sheets, newsletters, AWTP WaterWorks newsletters, and updates on the City of San Diego Web site also add to the public outreach efforts. Recently, the Ozone Project was presented to the CAC and TF. Both of these committees supported the proposed landscaping plan as part of the project but would like to see an enhanced architectural design for the Ozone building and therefore, did not endorse the building as currently designed.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Citywide Water Customers, MPI, Inc. (Design Consultant), CH2MHILL, Inc (Construction Management Consultant), Mission Trails Regional Park Citizen's Advisory Committee and Task Force, San Diego County Water Authority, and California Department of Public Health.

Barrett/Haas

FILE LOCATION: MEET

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

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



ITEM-333: Informational Report on Reinvestment Task Force's recommendations to mitigate the Foreclosure issue in San Diego.

**COUNCIL PRESIDENT PRO TEM YOUNG'S RECOMMENDATION:**

REPORT RECEIVED/DIRECTION GIVEN

Informational Report on Reinvestment Task Force's recommendations to mitigate the Foreclosure issue in San Diego.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:50 p.m. - 3:37 p.m.)

MOTION BY YOUNG TO RECEIVE THE REPORT AND TO DIRECT THE MAYOR TO COME BACK WITH A PLAN TO IMPLEMENT THE RECOMMENDATIONS; REFER THE RECOMMENDATIONS TO APPROPRIATE AGENCES AND HAVE THEM RESPOND WITHIN 30 DAYS; DIRECT THE CITY ATTORNEY TO ATTEND THE PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE MEETING TO PROVIDE AN OVERVIEW OF THE ENFORCEMENT STRATEGIES FOR INTERDICTION, REDUCING, AND REMOVING PREDATORY MORTGAGE LENDING PRACTICES IN THE REGION INCLUDING THE REVIEW OF POTENTIAL SECURITIES VIOLATIONS; WORK WITH THE HOUSING COMMISSION TO EXAMINE THE FEASIBILITY OF CREATING A REGIONAL LAND BANK TO PURCHASE FORECLOSED, BANK-OWNED PROPERTIES ON THE MARKET FOR THE PURPOSE OF ESTABLISHING FIRST-TIME AFFORDABLE HOMEBUYERS INITIATIVE; REFER THE POSSIBILITY OF THE CITY TO PURSUE FUNDING FOR NONPROFITS; REQUEST OUR CITY LOBBYIST PRESENT TO THE RULES COMMITTEE ALL LEGISLATION RELEVANT TO THE SUB-PRIME AND FORECLOSURE ISSUES WITHIN 30 DAYS; DIRECT THE CITY ATTORNEY, CENTRE CITY DEVELOPMENT CORPORATION, SOUTHEASTERN ECONOMIC DEVELOPMENT CORPORATION, AND THE HOUSING COMMISSION REPORT BACK ON HOW TO ASSIST IN IMPLEMENTING THESE RECOMMENDATIONS. 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-334: Two actions related to Approving Issuance of Multifamily Housing Revenue Bonds for Ten Fifty B. (Centre City Community Area. District 2.)

(See San Diego Housing Commission Report No. HAR-07-31.)

**SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2008-232) ADOTPED AS RESOLUTION R-303069

Approving the issuance of not to exceed \$28,300,000 aggregate principal amount of multifamily housing revenue bonds for Ten Fifty B (MHP Component), to finance the acquisition and construction of approximately 118 units of multifamily rental housing to be located at 1050 B Street in the City of San Diego, pursuant to Section 147(f) of the Internal Revenue Code of 1986;

Declaring that 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.

Subitem-B: (R-2008-247) ADOPTED AS RESOLUTION R-303070

Approving the issuance of not to exceed \$26,700,000 aggregate principal amount of multifamily housing revenue bonds for Ten Fifty B (Non-MHP Component), to finance the acquisition and construction of approximately 111 units of multifamily rental housing to be located at 1050 B Street in the City of San Diego, pursuant to Section 147(f) of the Internal Revenue Code of 1986;

Declaring that 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:**

Affirmed proposes to construct and operate a 23-story, 229-unit affordable rental housing development on a 19,994 square-foot site located on the north side of B Street between Tenth and Eleventh Avenues in downtown San Diego. The project would consist of 68 studio, 57 one bedroom, 34 two bedroom, and 70 three bedroom units.

A total of 226 apartments would be affordable to very low and low-income households earning 25% to 60% of Area Median Income (AMI) (\$15,800 to \$37,250 for a household of three). Three units will be reserved for on-site managers and will not be occupancy-restricted.

As part of its purchase contract with the property owner, Affirmed will construct ground floor retail space in the building and allow the seller to retain ownership of that portion of the building. The project will also include 132 parking spaces, a 700 square foot community room, and two outdoor terraces totaling 7,400 square feet.

Affirmed has developed over 1,500 units in California and the mid-Atlantic states of West Virginia, Virginia and North Carolina. Recent developments include new construction as well as acquisition and substantial rehabilitation projects in San Diego, Riverside, and Santa Clara counties. Recent projects in San Diego include the 106-unit Tesoro Grove Apartments, the 94-unit Hollywood Palms Apartments, the 50-unit Creekside Trails Apartments, the 69-unit Auburn Park Apartments, and the 275-unit Studio 15 development in downtown.

The total development cost of the project is estimated to be approximately \$88.7 million. In addition to housing revenue bonds, sources of funding will include a loan from the Centre City Development Corporation (CCDC), federal tax credits, a loan from the State of California's Multifamily Housing Program (MHP), private funds, and a deferred developer fee. The development of the project is dependent upon the developer securing the MHP loan.

**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 does 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. It is possible that the Housing Commission will be asked to participate in the local subsidy. The development team is currently gathering funding commitments.

**PREVIOUS HOUSING AUTHORITY and/or COMMITTEE ACTIONS:** None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Centre City Advisory Committee will hear items related to the project on September 13, 2007.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Low and very-low income households are the intended residents of the project. Affirmed will develop the project. The current owners of the site are: Julian E. Josephson and Jennifer Josephson, husband and wife; Stanley G. Smiedt and Paul B. Abelowitz as co-trustees of the Josephson Childrens Trust No. 1995-1; Stanley H. Smiedt and Marilyn Smiedt, husband and wife; and Julian E. Josephson and Sheldon Derezin as co-trustees of the Smiedt Children's Trust No. 1995-1. The developer has not yet selected financial participants for the project.

Fisher/Morris

**NOTE:** See the Housing Authority Agenda of October 9, 2007, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:27 p.m. - 4:27 p.m.)

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



ITEM-335: Substantial Amendment to the FY08 City of San Diego Annual Action Plan.

(See San Diego Housing Commission's Report No. CCR-07-002.)

**SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-212) ADOPTED AS RESOLUTION R-303071

Declaring that the 2005-2009 Consolidated Plan, a copy of which is on file in the Office of the City Clerk as Resolution R-29913, will be substantially amended

pursuant to a change in the method of distribution of HOPWA funds as requested by the County of San Diego;

Declaring that the FY08 Annual Action Plan, a copy of which is on file in the Office of the City Clerk accompanying Resolution R-302602, will be amended at the category level by more than 30%, through the funding of new permanent affordable housing development for persons with HIV/AIDS and Tenant Based Rental Assistance;

Approving the aforementioned substantial amendment(s), and authorizing the President & Chief Executive Officer of the Housing Commission to submit the Plan, on behalf of the City, to the U.S. Department of Housing and Urban Development for its review and approval;

Authorizing the Mayor, or his designee, to execute a grant agreement with HUD for the HOPWA Funds in 2008.

**SUPPORTING INFORMATION:**

The Five-Year Consolidated Plan serves as the planning and application tool for five formula-based entitlement grant programs administered by HUD: Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), American Dream Downpayment Initiative (ADDI), Emergency Shelter Grants (ESG), and Housing Opportunities for People with AIDS (HOPWA). Each year, the Consolidated Plan is updated through the preparation and adoption of an Annual Action Plan (AAP).

In FY08 the City applied for approximately \$27M in entitlement funds through the AAP process. The approved Plan was submitted to HUD on May 15, 2007 and became effective July 1, 2007. Beginning in 1998 the City of San Diego transferred administrative responsibility of the HOPWA program from the San Diego Housing Commission to the County of San Diego because funds are to be used Countywide and require coordination with service providers. Since that time, the County has partnered with social service providers to provide HOPWA related housing and supportive services through the provision of two-year service contracts. These service contracts have been granted with funding carried over from prior year entitlement allocations. In an effort to meet HUD's expenditure goals and to reconcile previous HOPWA program funding with the FY08 allocation, the County has requested that the City amend the funding allocations approved in the FY08 AAP. The revised portion of the FY08 AAP, as noted in red in Attachment 1, is summarized as follows:

The activities identified in the FY08 AAP associated with the HOPWA program will be funded with the City of San Diego's FY07 HOPWA allocation of \$2,549,000. In addition, \$434,788 in rollover funding from prior year allocations will be combined with the FY07 allocation for a total of \$2,980,000 to be expended on HOPWA programs.

Upon submittal of this substantial amendment to HUD, a portion of the FY08 HOPW A entitlement of \$2,551,000 will be released in a Notice of Funding Availability (NOFA)/Request for Proposals (RFP) for the development of permanent affordable housing for persons with HIV/AIDS. It is anticipated that \$2,000,000 will be allocated to the NOFA/RFP; \$295,000 to the HOPWA Tenant Based Rental Assistance Program; and \$255,100 for program administration.

HUD requires jurisdictions to adopt a Citizen Participation Plan (CPP) that sets forth policies and procedures for public involvement. The City of San Diego's CPP was approved as part of the 2005-2009 Consolidated Plan and includes the criteria used to determine the activities that constitute a substantial amendment and the requisite public noticing procedures. The San Diego Housing Commission has determined that the use of HOPWA funds toward the development of permanent supportive housing constitutes a change in the method of distribution of HOPWA funds. Accordingly, this proposed amendment is being processed as a substantial amendment pursuant to one or more of the criteria, including public noticing.

**FISCAL CONSIDERATIONS:**

The activities and services outlined in the FY08 Annual Action Plan will not be impacted as a result of the use of rollover funds. Remaining HOPWA funds will be released in FY08, and upon expenditure, will balance the HOPWA budget.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The substantial amendment was available for public review from July 18, 2007 through August 20, 2007 in the reference section of the City's branch libraries and in all of the City's Community Service Centers. A notice of public review was published in the San Diego Union Tribune and the San Diego Daily Transcript and was distributed via electronic media to Community Planning Group members and affected organizations throughout the County. Draft copies of the amendment were available on the San Diego Housing Commission website, [www.sdhc.org](http://www.sdhc.org).

**ENVIRONMENTAL REVIEW:**

This activity is an amendment to the application for grant funds and would not be considered a "project" and is therefore not subject to the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15060(c)(2). This project is exempt from the requirements of the National Environmental Policy Act (NEPA) pursuant to the applicable provisions of NEPA 24 CFR Part 58 Section 58.34(a)(1).

Individual projects and activities that are to be supported by HOPWA funds will be subject to environmental review and clearance, as required, prior to any expenditure of the funds.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The Code of Federal Regulations requires that Consolidated Plan programs generally serve very low, low, and moderate income persons and households. HOPWA funds are made available through a competitive process to community based organizations, government agencies and developers to establish adequate housing and support services for people living with HIV/AIDS.

Philips/Morris

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:40 p.m. - 3:45 p.m.)

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



ITEM-336: Furgatch v. San Diego Unified Port District, et al. Waiver of Attorney-Client and Attorney Work Product Privileges.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-2) ADOPTED AS RESOLUTION R-303072

Declaring that the Council of the City of San Diego waives its attorney-client and attorney work product privileges related to the reasons why the City of San Diego terminated the purchase and sale contract with the San Diego Unified Port District for the sale of Tailgate Park. Said termination of the purchase and sale contract is the subject of the waiver of privilege described herein. This waiver of privileges are specifically limited to the lawsuit known as Harvey Furgatch v. San Diego Unified Port District, et al, San Diego Superior Court Case No. GIC 775242 and further limited to the documents identified in Exhibit "1", together with testimony of City personnel related to the reasons why the City terminated the purchase and sale contract;

Declaring the waiver of the privileges described herein is not a "project" and is therefore exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

**SUPPORTING INFORMATION:**

In February 2000, the City entered into a purchase and sale agreement with the San Diego Unified Port District (Port) whereby the Port would pay \$21 million for four parcels of land commonly known as Tailgate Park. The agreement benefited the City by providing funds for the ball park development. The Port would obtain the right to use the land for event parking and also enter into a lease agreement with the Padres to operate parking during the baseball games.

Plaintiff Harvey Furgatch, a former Port Commissioner, sued the Port to prevent the expenditure of Port funds for this purchase. The City intervened as an interested party. Plaintiff alleged that the land was overvalued, that it was outside of the tidelands managed by the Port and that the Port did not need additional parking.

The Port paid an initial amount of approximately \$14 million dollars pending the finalization of the sale. At issue and a barrier to the finalization of the sale was the control the City would have over future use of this property. Thus, the City insisted that the land be subject to a conditional use permit (CUP). The Port wanted to take the property free of land use restrictions. Because the parties failed to agree on this term, the City terminated the contract in August 2005. The City returned the amount of \$14 million plus interest to the Port.

The City's termination of the contract occurred during the trial of this (Furgatch's) lawsuit. The trial court deemed the matter moot and dismissed the lawsuit. Plaintiff brought a motion for attorney's fees alleging his lawsuit, despite the dismissal, was a substantial factor in bringing about the termination of the purchase and sale agreement. The Court denied that motion. Plaintiff appealed and the appellate court remanded this matter to the trial court to allow Plaintiff discovery regarding the reasons why the City terminated the agreement. Further, the motion for attorney fees will be reheard by the trial court after completion of discovery.

The City terminated the contract because it could not reach agreement with the Port regarding a CUP related to the Port's use of the property after the sale. Also, the value of the land had increased significantly since the signing of contract in 2000 and the ball park was funded by the time the City terminated the sale to the Port. These reasons for termination are explained in documents protected by the attorney client and attorney work product privileges. Similarly, City personnel most knowledgeable with the reasons for the termination of the contract will need to discuss information related to these privileges.

The scope of the waiver will be limited to the documents and deposition testimony associated with the reasons why the City terminated the purchase and sale agreement.

FISCAL CONSIDERATIONS:

Plaintiff seeks in excess of one million dollars in fees and costs. This is a contingent liability based upon Plaintiff showing that his lawsuit is a substantial factor in the City's determination to terminate the contract.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On September 4, 2007, Council, in closed session casting a nonbinding vote, motion by Atkins, seconded by Madaffer, Districts 1 and 5 absent, voted 6 - 0 in favor of waiving the attorney-client and attorney work product privileges. Council previously, in May 2005, authorized the termination of the contract at issue.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None with this action.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: -

Riley

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:39 p.m. - 3:40 p.m.)

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



ITEM-337: Little Italy Concrete Planters and Hanging Baskets – Request to Bid, Authorize Funding, and Make Findings. (Little Italy Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment Project. District 2.)

(See Centre City Development Corporation Report CCDC-07-25/07-13.)

**CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:**

Take the following actions:

(R-2008- )                      RETURNED TO MAYOR

Finding and determining that the installation of concrete planters and hanging baskets for which the Agency proposes to pay is of benefit to the Little Italy Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment; that the Agency finds and determines that no other reasonable means for financing the Project are available to the community and that the Project will assist in eliminating one or more blighting conditions inside the Project Area, and that the Project is consistent with the Centre City Plans for July 2004 -June 2009, on file in the office of the Secretary to the Agency pursuant to California Health and Safety Code Section 33490;

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

**SUPPORTING INFORMATION:**

The improvements will enhance the Little Italy District with plants in concrete planters and hanging baskets in selected areas. The improvements will be permanently maintained by the Little Italy Association ("LIA") per LIA resolution. The LIA operates as a property-based enhancement district ("PBid") for the Little Italy District. The Corporation will purchase the concrete planters and hanging baskets. The LIA will supply all plants and labor for installation of the plant materials and maintenance of the project. The Corporation will bid the material purchase per Corporation vendor purchasing policy. As the material purchase is not bid yet, this report requests funding not to exceed \$200,000. The Corporation vendor purchasing and contracting policy requires Agency approval prior to execution of the bid. The cost estimate is \$177,691.

**FISCAL CONSIDERATIONS:**

The improvements are funded in the 2008 Budget under "Little Italy Public Improvements Project." The total available funding is \$1,899,000. The requested funding is not to exceed \$200,000. The planted pots and baskets are the first phase of the project. The remaining funds of \$1,699,000 will be used in a second phase for new sidewalks, signs, new trees, and other improvements. The second phase is currently in design.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:

The Centre City Development Corporation Board approved this item unanimously on July 25, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On June 5, 2007, the LIA voted in favor of purchasing and installing the plant material for the concrete planters and hanging baskets with earmarked LIA funds, to assign resources for the permanent maintenance of all planters and hanging baskets, and authorize their President to execute an Encroachment Removal and Maintenance Agreement with the City of San Diego.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders for the project are businesses and residents located in the Project Area along with visitors downtown.

Lake/Graham

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:35 p.m. - 2:35 p.m.)

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



ITEM-338: Burbank Elementary School Street and Easement Vacations.  
(Southeastern San Diego Community Plan Area. District 8.)

A vacation of a portion of an unnamed alley is proposed between Evans and Sampson Streets, and between Irving and Julian Avenues, as the alley is excess right of way and is not required for street purposes. Vacation of a 35-foot by 80-foot sewer easement and a 25-foot by 100-foot sewer easement are also proposed. These easements are also no longer required. The project is located within the Burbank Elementary School site and is in the Southeastern San Diego Community Plan area.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-128)            ADOPTED AS RESOLUTION R-303073

Adoption of a Resolution certifying that certain map surveyed by Thomas A. Jones, licensed Land Surveyor, titled "Parcel Map W.O. No. 422852" (Map), being a lot consolidation of Lots 1 to 48 inclusive in Block 224 of San Diego Land and Town Company's addition according to map thereof No. 379 filed in the Office of the County Recorder of San Diego County October 30, 1886, and together the northwesterly portion of the unnamed alley in said block 224 as dedicated to public use;

Declaring that those portions of Irving Avenue, Julian Avenue, Evans Street and Sampson Street and portions of the unnamed alley in block 224 as dedicated to public use per Map No. 379 recorded October 30, 1886, of official records; the sewer easement granted to the City of San Diego per Book 2241, Page 224, recorded September 20, 1946, of official records; the sewer easement granted to the City of San Diego per Book No. 228, Page 30, recorded October 24, 1946, of official records are not shown within this map because they have been vacated pursuant to Section 66445(j) of the Subdivision Map Act;

Declaring that prior to recordation of the Parcel Map, the applicant shall install curb, gutter and sidewalk along Sampson Street at the area of vacation, satisfactory to the City Engineer.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Approve the vacation of portions of an unnamed alley between Evans Street and Sampson Street, and between Irving Avenue and Julian Avenue and associated sewer easements, within the Southeastern San Diego Community Plan area.

**STAFF RECOMMENDATION:**

**APPROVE** Public Right-of-Way and Sewer Easement Vacation No. 106234 and Parcel Map No. 106188.

**EXECUTIVE SUMMARY:**

The San Diego School District is administering Proposition MM, a 1998 bond initiative passed by the electorate to construct 13 new schools, redevelop three existing school sites, and modernize, and upgrade the existing school site inventory. The Prop MM school sites require parcel consolidation and the vacation of existing public rights-of-way (streets and alleys) to create the new school sites.

The School District is processing both discretionary and ministerial actions to comply with City of San Diego standards related to Right-of-Way vacations and public improvements respectively. The public improvements typically include curb, gutter and sidewalks. These ministerial public improvement actions and discretionary right-of-way (ROW) vacations are being processed concurrently to allow the School District to maintain the Prop MM construction schedules and facilitate various school opening dates.

Burbank Elementary School is bounded by Evans and Sampson Streets, and Irving and Julian Avenues in the Southeastern San Diego Community Plan Area. The right-of-way to be vacated consists of a portion of an unnamed alley in the southeastern portion of the block. Two sewer easements would also be vacated.

To approve the requested vacations, the following four findings must be made.

1. There is no present or prospective use for the purpose for which the right of way was originally acquired.
2. The public will benefit from the vacation through improved utilization of land.
3. The vacation is consistent with the General Plan or an approved Community Plan.
4. The public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

City staff has confirmed that there is no present or prospective use for the right-of-way for which it was originally acquired and that no public use of a like nature is anticipated. Transportation staff has determined that the public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation. Proposition MM was approved by the voters and, in this area, would result in a school for an older, established neighborhood. In addition, new public improvements would be constructed around the school location. As such, the public would benefit from the vacation through improved utilization of the land.

The Southeastern San Diego Community Plan recommends the San Diego Unified School District work with the City of San Diego to acquire additional land to expand existing school sites (Page 111). As the proposed ROW vacation would allow for re-construction of a Burbank Elementary School, the project would be consistent with the plan.

**FISCAL CONSIDERATIONS:**

No cost to the city. A deposit has been collected from the applicant to cover the costs associated with processing the proposed projects.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

No previous City Council action.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

On May 9, 2005, the Southeastern San Diego Planning Committee voted 11-0-0 in favor of the Right-of-Way Vacation, with no recommended conditions.

**KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):**

San Diego Unified School District.

Escobar-Eck/Waring/MD

Staff: Morris Dye – (619) 446-5201  
Marianne Greene – Deputy City Attorney

**FILE LOCATION:** J-2981(14)

**COUNCIL ACTION:** (Time duration: 3:45 p.m. - 3:45 p.m.)

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



ITEM-S500: Retention of Outside Counsel and Declaratory Relief Actions Related to Retirement Benefit Changes.

(See memorandums from Mayor Sanders dated 9/27/2007 and 8/9/2006; memorandums from Council President Peters dated 7/19/2006 and 5/15/2006; letter from San Diego City Employees Retirement System dated 8/3/2007; memorandum from Norman S. Milks dated 8/24/2007; and letter from Harvey L. Leiderman dated 5/4/2007.)

**MAYOR SANDERS' RECOMMENDATION:**

Take the following actions:

(R-2008-319)            ADOPTED AS RESOLUTION R-303074

Authorizing the Mayor to retain outside legal Counsel, reporting jointly to the City Council and to the Mayor, to provide legal services related to determining the effective date of retirement benefit changes for employees hired between July 1, 2005 and February 16, 2007;

Authorizing initiation of litigation, to include a Declaratory Relief Action and other actions as necessary, to determine the effective date of the retirement benefit changes;

Authorizing the City Auditor and Comptroller to appropriate the necessary funding from the Public Liability Fund and to expend these funds for outside counsel fees related to this action;

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

FILE LOCATION:            MEET

COUNCIL ACTION:            (Time duration: 4:37 p.m. - 6:15 p.m.)

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

