

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, OCTOBER 16, 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 10:07 a.m. Council President Peters recessed the meeting at 10:51 a.m. for the purpose of a break. Council President Peters reconvened the meeting at 10:58 a.m. with Council Member Maienschein not present. The meeting was recessed by Council President Peters at 11:58 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:05 p.m. with all Council Members present. Council President Peters recessed the meeting at 3:43 for the purpose of a break. Council President Peters reconvened the meeting at 3:51 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 4:02 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:

Nicole Murray Ramirez commented on civil rights and presented plaques to Council Members.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:59 a.m. – 11:02 a.m.)

PUBLIC COMMENT-2:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-3:

Hud Collins commented on the war in Iraq and the City Attorney.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:05 a.m. - 11:08 a.m.)

PUBLIC COMMENT-4:

Ron Boshun commented on the actions of Council.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-5:

Corey Briggs commented on the Navy Broadway Complex.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:12 a.m. - 11:14 a.m.)

PUBLIC COMMENT-6:

Ian Trowbridge commented on Center City Development Corporation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:14 a.m. - 11:16 a.m.)

PUBLIC COMMENT-7:

Charles Pratt commented on the relationship with the City Council and the City Attorney's Office.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:16 a.m. - 11:19 a.m.)

PUBLIC COMMENT-8:

Deborah Knight commented on Rose Canyon.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:19 a.m. - 11:21 a.m.)

PUBLIC COMMENT-9:

Barbara Winton commented on hazardous waste.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:22 a.m. - 11:25 a.m.)

PUBLIC COMMENT-10:

Katheryn Rhodes commented on the Bayshore Bikeway project.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:25 a.m. - 11:28 a.m.)

COUNCIL COMMENT:

None.

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.



ITEM-30:

Approval of Council Minutes.

TODAY'S ACTION IS:

APPROVED

(MINUTES OF 07/31/07 CONTINUED TO OCTOBER 23, 2007)

Approval of Council Minutes for the meetings of:

07/30/2007
07/31/2007
08/06/2007 - Adjourned
08/07/2007 - Adjourned
08/13/2007 - Adjourned
08/14/2007 - Adjourned
08/20/2007 - Adjourned
08/21/2007 - Adjourned
08/27/2007 - Adjourned
08/28/2007 - Adjourned
09/03/2007 - Adjourned
09/04/2007
09/10/2007
09/11/2007

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:30 a.m. – 11:47 a.m.)

MOTION BY FRYE TO APPROVE ALL MINUTES EXCEPT THE JULY 31, 2007, MINUTES WHICH WILL BE CONTINUED TO OCTOBER 23, 2007. 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: San Diego Junior Theatre Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-117) ADOPTED AS RESOLUTION R-303078

Commending San Diego Junior Theatre for 60 years of engaging, innovative, high-quality theatre education and productions for children of all cultural heritages, ages, abilities and levels of interest;

Proclaiming October 16, 2007, to be “San Diego Junior Theatre Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:18 a.m. – 10:28 a.m.)

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



[ITEM-32:](#) Maurice Eis Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-241) ADOPTED AS RESOLUTION R-303079

Proclaiming October 16, 2007, as "Maurice Eis Day" in the City of San Diego in recognition of the many community services he has provided to the citizens of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:08 a.m. – 10:17 a.m.)

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

ITEM-50: Tobacco Retailer Ordinance – Version D, Relating to Requirements for Permits for Tobacco Project Sales. (Citywide.)

(See Independent Budget Analyst Report No. 07-85 and letter from Judy Strang dated 9/10/2007 [not available at the Committee]; Report from the City Attorney dated 6/29/2006; E-mail from Molly Bowman dated 7/12/2006; letter from Auday P. Arabo, Esq. dated 7/12/2006; City Manager Report No. 05-091; and Reports from the City Attorney dated 5/4/2007, 3/23/2007, 4/8/2005, and 4/7/2005 [not available at the Committee].)

(Continued from the meeting of September 25, 2007, Item 50, at the request of Mayor Sanders, for further review.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced as amended on 9/10/2007, Item 150. (Council voted 7-0. Council President Peters not present):

(O-2007-128 Rev.)

RETURNED TO CITY ATTORNEY

Amending Chapter 3, Article 3, of the San Diego Municipal Code by adding Division 45, Sections 33.4501 to 33.4518, titled "Permits for Tobacco Product Sales," relating to requirements for permits for tobacco product sale. State Assembly Bill 71, codified in California Business and Professions Code section 22971.3, created a state licensing program for the sale of tobacco products, and authorizes local governments to adopt their own ordinances to provide for the suspension or revocation of a local license for any violation of a state tobacco control law. This ordinance provides for local regulation of tobacco retail businesses by requiring police permits. The intent is to discourage violations of law prohibiting the sale or distribution of tobacco products to minors to protect their health, welfare, and safety. It is also the intent that all costs associated with the administration and enforcement of this Division be borne by tobacco retailer applicants and permittees.

FILE LOCATION: MEET

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

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



ITEM-51: Tobacco Retailer Ordinance – Version E. (Citywide.)

(See Report from City Attorney Aguirre dated October 5, 2007.)

CITY ATTORNEY'S RECOMMENDATION:

Introduce the following ordinance:

(O-2008-34) INTRODUCED WITH DIRECTION, TO BE ADOPTED
ON TUESDAY, OCTOBER 30, 2007

Introduction of an Ordinance amending Chapter 3, Article 3, of the San Diego Municipal Code by adding Division 45, Sections 33.4501 to 33.4519, titled "Permits for Tobacco Products Sales," relating to requirements for a Police permit

for Tobacco Retailers. State Assembly Bill 71, the Cigarette and Tobacco Products Licensing Act of 2003, codified in California Business and Professions Code Section 22971.3, creates a state licensing program for the sale of tobacco products, and authorizes local governments to adopt their own ordinances to provide for the suspension or revocation of a local license for any violation of a state tobacco control law. The intent is to discourage violations of law prohibiting the sale or distribution of tobacco products to minors to protect their health, welfare, and safety. It is also the intent that all costs associated with the administration and enforcement of this Division be borne by tobacco retailer applicants and permittees. It is further the intent that recoveries hereunder shall be used to pay the costs of administration and enforcement of this Division.

SUPPORTING INFORMATION:

Tobacco use by minors is a public health and safety risk. State law creates a state licensing program for the sale of tobacco products and authorizes local governments to adopt their own ordinances to provide for the suspension or revocation of a local license for any violation of a state tobacco control law. The ordinance requires a police permit for the sale of tobacco products. The intent is to discourage violations of law prohibiting the sale or distribution of tobacco products to minors to protect their health, welfare, and safety.

Previous versions of the ordinance provided for administration to be handled by the City Treasurer through the business tax certificate process, and enforcement to be handled by the Chief of Police. The current version of the ordinance now gives the Chief of Police authority to administer and enforce the ordinance. All costs of administering and enforcing the ordinance are to be borne by tobacco retailers through an annual permit fee. Costs will be reviewed annually and the permit fee adjusted, if necessary.

FISCAL CONSIDERATIONS:

The ordinance is not a revenue generator. The ordinance provides for full cost recovery of administration and enforcement costs through an annual permit fee. The proposed permit fee for the first year is \$221. The City's Auditor has agreed to establish a special revenue account within the General Fund. The revenue collected from the tobacco permit fees will be deposited into this separate revenue account. Costs will be reviewed annually, and the permit fee adjusted, if necessary.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On April 13, 2005, the Committee on Public Safety and Neighborhood Services was presented with two versions of a Tobacco Retailer Ordinance, O-2005-65-Draft, and O-2005-65-Draft-Version B. Neither version passed. On July 12, 2006, the Ordinance, O-2006-161-Version C,

was presented to the Committee. The item passed, pending resolution and clarification of several issues, and was forwarded to City Council without a recommendation. On September 10, 2007, the City Council voted unanimously to approve the Tobacco Retailer Ordinance, Version D, O-2007-128, with two amendments. The revised ordinance, O-2007-128 REV., was scheduled for second reading and adoption on September 25, 2007. At that time, the item was continued to October 16, 2007, to address technical issues related to administration of the ordinance.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

American Lung Association; California Grocers Association; San Diego small business owners.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Local retailers will be required to obtain police permits to sell tobacco products.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:49 a.m.)

MOTION BY YOUNG TO INTRODUCE THE ORDINANCE WITH DIRECTION THAT PERMIT FEES BE EXPLICITLY DIRECTED TO POLICE DEPARTMENT'S BUDGET SO THE MONEY IS THERE FOR THE COST RECOVERY AT THE POLICE DEPARTMENT. Second by Maienschein. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-52: Request to Exempt Two Assistant Investment Officer Positions from the Classified to Unclassified Service.

(See memorandums from Rich Snapper dated 9/13/2007 and David B. Wescoe dated 8/15/2007.)

SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM'S RECOMMENDATION:

Introduce the following ordinance:

(O-2008-37) CONTINUED TO TUESDAY, OCTOBER 30, 2007

Introduction of an ordinance exempting two positions of Assistant Investment Officers for the San Diego City Employees' Retirement System from the Classified Service, pursuant to Section 117(a) 17 of the City Charter.

SUPPORTING INFORMATION:

On September 6, 2007, the Civil Service Commission reviewed a request from the Retirement Administrator to exempt two Assistant Investment Officer positions from the classified to unclassified service. These positions will work in the San Diego City Employees' Retirement System, Investment Division and will report to the Deputy Chief Investment Officer (Program Manager). The positions will have primary responsibility for the administration of SDCERS' investment program through the monitoring of external investment managers to ensure that investment activity and performance complies with SDCERS' Board Investment Policy, Goals and Objectives.

Wescoe

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:49 a.m. – 11:57 a.m.)

MOTION BY FRYE TO CONTINUE TO TUESDAY, OCTOBER 30, 2007, FOR FURTHER REVIEW. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-100: Inviting Bids for Otay II Pipeline Improvements - Cast Iron Replacement Phase Project.

(See Executive Summary Sheet dated 5/22/2007. Oak Park and Mid-City Community Areas. Districts 4 and 7.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-76) ADOPTED AS RESOLUTION R-303080

Approving the plans and specifications for the construction of the Otay II Pipeline Improvements - Cast Iron Replacement Phase Project (Project) as advertised by the Department of Purchasing and Contracting, on Work Order No. 187031;

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

Authorizing the expenditure of an amount not to exceed \$15,506,506 from Water Fund 41500, CIP-73-286.0, Otay II Pipeline Improvements, with \$14,916,506 from Water Fund 41500, CIP-73-286.0, for the purpose of providing for the construction and related costs associated with Sub CIP-73-286.6, Otay II Pipeline Improvements (Cast Iron Replacement Phase), and \$590,000 from Water Fund 41500, CIP-73-331.0, Annual Allocation - Water Pooled Contingency, 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 under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the use of City Force Work in Water Fund 41500, CIP-73-286.0, Otay II Pipeline Improvements (Cast Iron Replacement Phase) in an amount not to exceed \$446,851 for the purpose of performance of Project related operational checks and inspections;

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

Declaring that prior to approving the Project, the City, as Lead Agency under the California Environmental Quality Act (CEQA), reviewed and considered Environmental Impact Report (EIR) No. 5503, dated May 7, 2004, covering this activity, which was adopted on June 28, 2004 by Resolution No. RR-299378;

Certifying that the information contained in EIR No. 5503 has been completed in compliance with CEQA and State CEQA Guidelines, and that EIR No. 5503 reflects the independent judgment of the City as Lead Agency and adopting the Mitigation, Monitoring and Reporting Program. (BID-K072390C)

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 6/4/2007, NR&C voted 3 to 0 to approve. (Councilmembers Faulconer, Frye, and Hueso voted yea. Councilmember Maienschein not present.)

SUPPORTING INFORMATION:

The Otay II Pipeline was originally constructed to convey water 19 miles from the Otay Water Treatment Plant to the University Heights Reservoir in North Park. Built from 1928 to 1930, the pipeline continues to serve today as a lifeline, moving up to 20 million gallons of water north and south between the Alvarado and Otay service areas. The primary objective of the Otay II Pipeline Improvements Project is to maintain a reliable source of transmission of potable water through maintenance, repair, or replacement of the existing pipeline. The Cast Iron Replacement Phase is one of eight phases of the Otay II Pipeline Improvements Project. This project is one of the mandated projects by the California Department of Health Services (DHS) Compliance Order (04-14-96CO-022). The original mandated dates were design completion by December 2004 and construction completion in 2006. Mandated design completion date was met but due to financing constraints, the Water Department deferred the mandated construction date to a future date. Failure to replace the aging pipeline will affect the department ability to move water between service areas and will increase the risk of pipe breaks, which could result in disruption of water services and possible financial hardship to the impacted communities.

This project includes the installation of approximately 7,800 feet of new 42-inch welded steel pipe and replacement of approximately 3,220 feet of the existing cast iron pipe with 16-inch PVC distribution pipeline in 54th Street and abandonment of approximately 1,200 feet of the Otay I and Otay II Pipelines east of Easy Street. The support of the City Forces on this project is crucial due to several major pipeline connections and installation of temporary valves and piping for the 16-inch distribution line that will maintain the City's reliable source of potable water during construction.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$17,460,606 of which \$1,954,100 was previously authorized. The remaining cost of this project is \$15,506,506 and will be phase funded in FY 2008, 2009, and 2010. Funding in FY 2008 in the amount of \$5,847,018 is available in Water Fund 41500, CIP-73-286.0, Otay II Pipeline Improvements. Of the \$5,847,018 for FY 2008, \$4,677,614.40 will be financed with proceeds from the Subordinated Water Revenue Notes, Series 2007 A. The remaining \$1,169,403.60 will be cash funded. Funding for future phases will be contingent upon the issuance of bonds in FY 2009 and 2010, as part of the approved water rate increase. Of the remaining \$9,659,488 for FY 2009 and 2010, \$7,727,590.40 will be

financed from future Water Revenue Bonds and \$1,931,897.60 will be cash funded. The Auditor's Certificate for Phase I (FY2008) construction will be issued prior to contract award.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The design agreement with Black & Veatch Corporation was approved by City Council (RR-297421) dated October 28, 2002. This item was presented and approved at the Natural Resources and Culture Committee meeting of August 4, 2004. This item was presented again and approved at the Natural Resources and Culture Committee meeting of June 4, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Community Outreach took place during the design of this project. Further outreach will take place in the Mid City and greater North Park areas prior and during construction.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Key stakeholders are the Water rate payers, Black & Veatch Corporation (Design Consultant), the construction contractor (to be selected) and the California Department of Health Services.

Barrett/Haas

FILE LOCATION: CONT-EL CAJON GRADING & ENGINEERING CO. INC

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER 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-101: Change Order No. 1 with 3D Enterprises, Inc. for El Cajon Boulevard Median Improvements Reallocation of Funding. (College Area Community Area. District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-158) ADOPTED AS RESOLUTION R-303081

Approving Change Order No. 1 and the changes therein set forth, dated March 22, 2007, issued in connection with the contract between the City of San Diego and 3D Enterprises, Inc., said contract having been filed in the Office of the City Clerk as Document No. RR-301825, amounting to a net increase in the contract price of \$465,744;

Authorizing the Mayor to execute, for and on behalf of the City of San Diego, Contract Change Order No. 1, and to award Additive Alternatives A, C, and D for City Clerk Document No. RR-301825;

Authorizing the City Auditor and Comptroller to expend an additional \$465,744 from CIP-39-234.0, El Cajon Blvd. Median Improvement, Fund No. 10274, Crossroads Redevelopment - CIP Contribution, for contract Change Order No. 1 with 3D Enterprises, Inc., increasing the total contract amount from \$1,248,626 to \$1,714,370;

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 exempt from CEQA pursuant to State CEQA Guidelines, Section 15304. This project has Programmatic Categorical Exclusion (PCE).

STAFF SUPPORTING INFORMATION:

The El Cajon Blvd. Median Improvements Project includes landscaping, irrigation, and related improvements along El Cajon Blvd. from 54th Street to 73rd Street within the College Area. The work consists of approximately 2.5 miles of improvements to the existing medians as well as community identification signs, and other streetscape related improvements. The construction cost estimate by the lowest responsible bidder was higher than the Engineer's cost estimate therefore, only the Base Bid was awarded. To cover the remaining cost for Additive Alternate A, which provides for Landscape and Irrigation, Alternate C, which provides for two community signs, and Alternate D, which provides for solar power to illuminate the signs, \$340,000 of tax increment funds from the Crossroads Redevelopment Project Area along with \$45,000 from the College Heights Enhanced Maintenance Assessment district were added to this project. The funds provided by Crossroads Redevelopment Project Area along with those provided by the College Heights Enhanced Maintenance Assessment District are intended to increase existing contingencies in the current contract in order to fund the \$465,744 needed for the change order.

FISCAL CONSIDERATIONS:

The original construction contract awarded was \$1,248,626. Change Order No. 1 will increase the construction contract by \$465,744. With this action, the total construction contract will be \$1,714,370.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

- Council Resolution R-301825 dated August 15, 2006, authorized the acceptance of funding for the Capital Improvements and maintenance.
- Council Resolution R-04104 dated Jan 17, 2007, authorized the acceptance of additional funding from Crossroads Redevelopment Project Area and College Heights Maintenance Assessment District.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The project is supported by the College Area Business Improvement District the College/Rolando community planning group, and crossroads PAC.

KEY STAKEHOLDERS:

- College Heights Maintenance Assessment District, College Area Business Improvement District, College Area Community Council, Eastern Area Community Planning Committee, and Crossroads Redevelopment Project Area Committee.
- 3-D Enterprises, Inc.

Boekamp/Haas

Aud. Cert. 2700869.

Staff: Frank Gaines - (619) 533-3771
Peter A. Mesich - Deputy City Attorney

FILE LOCATION: CONT - 3-D Enterprises, Inc.

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER 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-102: Agreement with Helix Environmental Planning, Inc. for As-Needed Environmental Services Contract 2007 thru 2010.

(See Metropolitan Wastewater Department's Executive Summary Sheet dated 8/24/2007.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-221) ADOPTED AS RESOLUTION R-303082

Authorizing the Mayor, or his designee, to execute, for an on behalf of the City, an agreement with Helix Environmental Services for as-needed consulting services to the Metropolitan Wastewater Department 2007-2010, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$500,000 from Fund No. 41506, solely and exclusively, to provide funds for the agreement;

Declaring that this activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines section 15378(b)(4) as this activity is a governmental fiscal activity, which is not committed to a specific project that may have a significant impact on the environment.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 9/26/2007, NR&C voted 4 to 0 to approve. (Councilmembers Faulconer, Maienschein, Frye, and Hueso voted yea.)

SUPPORTING INFORMATION:

The Metropolitan Wastewater Department (MWWD) proposes to enter into an agreement with Helix Environmental Planning, Inc. to provide as-needed environmental consulting services for the Metropolitan Wastewater Department (MWWD). The agreement would be for a duration of three years and at a not-to-exceed amount of \$500,000. MWWD's current contract for environmental services is nearing completion and MWWD anticipates continued need for as-needed environmental consultant services in support of the Department.

MWWD advertised and requested proposals for the 2007-2010 as-needed environmental services contract in April 2007. Eight proposals were received. A selection committee in compliance with MWWD guidelines was convened, and four companies were short-listed. The four gave presentations to the committee, and Helix Environmental Planning, Inc. was selected as the most qualified firm overall.

The As-Needed Environmental Services Consultant will work with MWWD to support our implementation of the City's sewer inspection, cleaning, and maintenance program to comply with the United States Environmental Protection Agencies' Administrative Order. MWWD's ongoing Canyon Sewer Cleaning Program is focused on cleaning approximately 253 miles of non-right-of-way sewer pipelines, many of which are located within canyons or other environmentally sensitive areas. In many cases, maintenance access through these environmentally sensitive lands does not exist. In these cases, the creation of temporary or permanent access paths have resulted in the need for biological, archaeological, and general environmental expertise to minimize environmental impacts, evaluate environmental impacts, and satisfy regulatory requirements.

The As-Needed consultant would also assist with MWWD's Emergency Canyon Access Program and CIP facility projects. Work to be performed under this contract will be completed on a task by task basis, and requires environmental regulatory expertise to satisfy State and Federal compliance with the California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA), as well as local and regional environmental compliance in support of MWWD operations. MWWD anticipates ongoing needs for biological surveys; archaeological surveys and monitoring; environmental impact evaluations; preparation of mitigation, monitoring, and reporting programs (MMRP's); revegetation and habitat restoration plans; preparation of preliminary environmental constraints analyses and reports; water quality reports; construction monitoring; traffic analyses; visual impact assessments; acoustical analyses; paleontological monitoring; geotechnical investigations; GIS mapping; and overall environmental document preparation. These tasks require MWWD to conduct work in a timely manner to meet required schedules and satisfy regulatory conditions.

FISCAL CONSIDERATIONS:

The total amount of this request is \$500,000. Funds are available in Sewer Funds 41506, 41508, and 41509.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This action was reviewed and approved by the Natural Resources and Culture Committee on September 26, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable to this action.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Helix Environmental Planning, Inc.
Affinis Environmental Services, Kimley-Horn & Associates, Inc., Ninyo & Moore, Scientific Resources Associated, and Stantec Consulting.

Ferrier/Haas

Aud. Cert. 2800241.

Staff: Mike Elling - (858) 292-6477
James Lancaster – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:29 a.m. – 11:30 a.m.)

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

* ITEM-103: Grant Application to the State of California, Department of Transportation for Ruffin Road/Murphy Canyon Road Bikeway Project. (Kearny Mesa Community Area. District 6.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-211) ADOPTED AS RESOLUTION R-303083

Authorizing the Mayor, or designee, for and on behalf of the City of San Diego (City), to make application to the State of California, Department of Transportation for a grant according to the Bicycle Transportation Act (BTA) for bike lane/route construction funding for the Ruffin Road/Murphy Canyon Road

Bikeway Project, CIP-58-195.0, (Project) for the purpose of constructing a bike lane/route;

Authorizing the Mayor, or designee, to take all necessary actions to secure BTA funding from the State of California, Department of Transportation, for the Project;

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

Amending the Fiscal Year 2008 Capital Improvements Program Budget, by adding CIP-58-195.0, Ruffin Road/Murphy Canyon Road Bikeway Project;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$16,300 from Fund 100, General Fund, General Services Street Division, to Fund 630221, Contributions from Fund 100, for the purpose of providing the City's matching funds for the BTA Grant;

Authorizing a \$162,500 increase in the 2008 Capital Improvements Program Budget in CIP-58-195.0, Ruffin Road/Murphy Canyon Road Bikeway Project, of which \$16,300 will come from Fund 630221, Contributions from Fund 100, and \$146,200 will come from the BTA grant fund, upon receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend an amount not to exceed \$162,500 from CIP-58-195.0, Ruffin Road/Murphy Canyon Road Bikeway Project, of which \$146,200 is from the BTA Department of Transportation grant fund, and \$16,300 is in Fund 630221, Contribution from Fund 100, for the purpose of funding the Project- constructing a Class II Bikeway along Ruffin Road and Aero Drive and upgrade the existing Class III Facility on Murphy Canyon Road between Aero Drive and the Murphy Canyon Bike Path, contingent upon the receipt of a fully executed grant agreement;

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

STAFF SUPPORTING INFORMATION:

The Ruffin Road/Murphy Canyon Road Bikeway Project will install striping, markings and signage of Class II bike lanes along Ruffin Road and Aero Drive and will upgrade the existing Class III facility of Murphy Canyon Road between Aero Drive and the Murphy Canyon Bike Path. Total project length is approximately 3.23 miles. This project will provide improved commuter bicycle access to employment centers, the Stonecrest Shopping Center, and other commercial areas in the community. Additionally, the project will connect to the existing Class II facilities on Kearny Villa Road, Aero Drive, and Ruffin Road south of Aero Drive, as well as the Class III facility on Clairemont Mesa Boulevard.

FISCAL CONSIDERATIONS:

Total project cost is estimated to be \$162,500. The City of San Diego will receive grant funding in an amount not to exceed \$146,200 from the State of California, Department of Transportation, for this project. \$16,300 is available in Fund 630221, Contributions from Fund 100, to satisfy the 10% match requirement.

PREVIOUS COUNCIL COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Ruffin Road/Murphy Canyon Road Bikeway project is a component of the City's Bicycle Master Plan, is consistent with the Kearny Mesa Community Plan (project KM-T17) and the City's General Plan Guidelines.

Boekamp/Haas

Aud. Cert. 2800187.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER 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: Food Allergy and Anaphylaxis Awareness Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-240) ADOPTED AS RESOLUTION R-303084

Proclaiming October 7, 2007, to be "Food Allergy and Anaphylaxis Awareness Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER 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-105: AIDS Walk Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-233) ADOPTED AS RESOLUTION R-303085

Recognizing AIDS Walk and commending it for its contribution to HIV/AIDS service providers;

Proclaiming September 30, 2007, to be "AIDS Walk Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER 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-330: Site Location of the Single Adult Shelter FY 2008 Homeless Emergency Winter Shelter Program. (Citywide.)

See Report to the City Council No.07-138; Site Reviewed for Winter Homeless Shelter Location dated 8/29/2007; memorandum from Scott Kessler, Deputy Director of Economic Development Division, dated October 8, 2007, providing additional information on locations; and memorandum from Councilmember Hueso dated 9/11/2007.)

(Continued from the meeting of September 11, 2007, at Councilmember Hueso's recommendation, to identify additional alternative locations.)

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2008-) ADOPTED AS RESOLUTION R-303087

Designating a site location of the Single Adult Shelter for the FY 2008 Homeless Emergency Winter Shelter Program from the following alternative sites:

- Newton Avenue at 16th Street (1535 Newton Avenue) in the East Village Community;
- Enterprise Street between Jessop and Midway, across from the Midway Post Office in the Point Loma Community; or
- Park Boulevard at President's Way in the former Navy Hospital's lower parking lot in the Balboa Park Area.

NOTE: Proposed additional new sites for Council consideration:

- Tailgate Park – K Street / 12th Avenue / 13th Street / 14th Street / Imperial Avenue (Downtown San Diego)*

- Vacant city lot bounded by G Street / Market / 11th Avenue / Park Blvd.
(Downtown San Diego)

* Unknown at this time, potential loss of revenue for the City regarding the Rugby Sevens Tournament held at Petco Park, February 9th and 10th, 2008 with Tailgate Park used for the event parking.

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

STAFF SUPPORTING INFORMATION:

On September 11, 2007, City Council was presented with three options for the location of the FY 2008 Homeless Emergency Winter Shelter Program's Single Adult Program: the Ex-Navy Hospital lower parking lot (at Balboa Park), Enterprise Street between Jessop Lane and Midway Boulevard (Pt. Loma), and 16th Street at Newton Avenue (Downtown San Diego). City Council voted at the September 11th meeting to continue the item until October 16, 2007 with direction to the City Attorney's Office to review any applicable state laws that may prohibit the City from citing the Homeless Emergency Winter Shelter Single Adult Program due to registered sexual offenders or other issues. During discussion at the City Council meeting, the Council requested that Homeless Services pursue any additional locations that may be available.

After the September 11th City Council meeting City staff once again reached out to City departments and identified eleven (11) additional potential locations with assistance from CCDC. Homeless Services quickly reviewed these sites for the minimum requirements. Of the eleven (11) sites, nine (9) sites were eliminated mostly due to the minimum size required for the sprung tent structure. The following two (2) sites were identified as possible locations for the site: Tailgate Park - K Street / 12th Avenue / 13th Street / 14th Street / Imperial Avenue (Downtown San Diego)* and the vacant city lot bounded by G Street / Market / 11th Avenue / Park Blvd. (Downtown San Diego).

The following minimum requirements were used to evaluate potential sites for the location of the Single Adult Program's homeless shelter sprung structure:

- The footprint of the single adults' shelter sprung structure is 60' x 180'. For purposes of conducting shelter operations, a minimum area of 65' (width) x 500' (length), or larger of paved, flat, relatively level space to accommodate the needed infrastructure for sanitation (showers, toilets and washing areas), food service and medical support;
- Proximity (easy walking distance) to public transportation or mass transit;
- Availability of electrical and water hookups;

- Near "core City area"; and
- Minimal disruption to the surrounding area.

FISCAL IMPACT:

There is no impact to the General Fund from this action. However, additional infrastructure costs would result in the need to adjust the designated line items included in the existing FY 2008 Homeless Emergency Winter Shelter Program budget.

* Unknown at this time, potential loss of revenue for the City regarding the Rugby Sevens Tournament held at Petco Park, February 9th and 10th, 2008 with Tailgate Park used for the event parking.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Continued from City Council meeting of September 11, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Residents and businesses in downtown area of East Village community and residents and businesses in the Midway area.

Kessler/Anderson

Staff: Sharon Johnson - (619) 533-6525

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 3:43 p.m.)

MOTION BY HUESO TO DESIGNATE THE VACANT LOT BOUNDED BY G STREET/MARKET/11TH AVENUE/PARK BOULEVARD FOR THE FISCAL YEAR 2008 HOMELESS EMERGENCY WINTER SHELTER SITE. Second by Young. Passed by the following vote: Peters-yea, Faulconer-nay, Atkins-nay, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-331: Contract Change Order No. 2 with Kubly Golf Course Construction Inc., for the Torrey Pines Golf Course and Clubhouse Improvements.

(See 1472 dated 8/15/2007 and Engineering and Capital Projects Department's Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-205 Cor. Copy 2) ADOPTED AS RESOLUTION R-303088

Amending the Fiscal Year 2008 Capital Improvements Program Budget for CIP-25-012.0, Torrey Pines Golf Course South Course Improvements, in Fund 41400, Golf Enterprise Fund, by increasing the budget amount by \$350,000;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$350,000 from CIP-25-012.0, Torrey Pines Golf Course South Course Improvements, Fund No. 41400, Golf Enterprise Fund, solely and exclusively, for the purpose of executing Construction Change Order No. 2 and 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 Change Order No. 2 to Contract K-073923 in the amount of \$383,633.53, which will increase the total construction contract to \$1,204,780.17;

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2008 Capital Improvement Budget in CIP-25-018.0, Torrey Pines Clubhouse Maintenance Requirements, Fund No. 41400, Golf Enterprise Fund, by an amount not to exceed \$80,000;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$80,000 from CIP-25-018.0, Torrey Pines Clubhouse Maintenance Requirements, Fund No. 41400, Golf Enterprise Fund for the purpose of constructing clinker brick walls in the patio area and paving of the patio area and cart staging area and related costs;

Amending the Fiscal Year 2008 Capital Improvements Program Budget for CIP-25-012.0, Torrey Pines Golf Course South Course Improvements, in Fund 41400, Golf Enterprise Fund, by increasing the budget amount by \$250,000;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$250,000 from CIP-25-012.0, Torrey Pines Golf Course South Course Improvements, Fund No. 41400, Golf Enterprise Fund for the purpose of improving the existing halfway house and restroom facilities;

Amending the Fiscal Year 2008 Capital Improvements Program Budget for CIP-25-018.0, Torrey Pines Clubhouse Maintenance Requirements, in Fund 41400, Golf Enterprise Fund, by increasing the budget amount by \$320,000;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$320,000 from CIP-25-018.0, Torrey Pines Golf Course South Course Improvements, Fund No. 41400, Golf Enterprise Fund for the purpose of constructing a starter booth, snack cart concrete pad and fencing, new planters and a course map;

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

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

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

Information only. No action taken.

SUPPORTING INFORMATION:

On October 14, 2002, City Council entered into a lease agreement with the Friends of Torrey Pines, LLC (Friends), for the use of the Torrey Pines Golf Course for the 2008 US Open Golf Championship (R-297193).

The Lease Agreement obligates the Friends to operate and organize the 2008 US Open Golf Championship, and to pay for any permanent architectural course improvements in an amount not to exceed \$350,000 as directed by the United States Golf Association (USGA) and as agreed to by the City (Paragraph 5.1.1).

The Lease Agreement also obligates the City to provide acceptable conditions of play for the Championship as determined by the USGA (Paragraph 12.1). For this purpose, on January 11, 2005, City Council authorized an amendment to the FY 2005 CIP Budget by adding CIP-25-012.0, Torrey Pines Golf Course South Course Renovation with an initial appropriation of \$400,000 (R-300047). This initial appropriation was increased by \$1,200,000 through the FY 2006 budget process and by an additional \$1,000,000 when City Council authorized a fund transfer on November 21, 2006 from CIP-25-005.0, Torrey Pines Golf Course North Course Improvements, increasing the total appropriation to \$2,600,000 (R-302101).

On November 21, 2006, City Council authorized amendment to the FY 2007 CIP Budget by adding CIP-25-018.0, Torrey Pines Golf Course - Existing Clubhouse Maintenance Requirements with an initial appropriation of \$400,000 (R-302101). This initial appropriation has funded clubhouse improvements that have included painting, landscaping, irrigation, and enhanced paving.

Course Improvements by Friends - Friends obligation under the terms of the Lease Agreement included installation of new bunkers, and relocation of and improvements to the existing bunkers within the South Course. These improvements have been completed for a total cost of over \$390,000.

Improvements within CIP-25-012.0, Torrey Pines Golf Course South Course Renovation - Previous improvements to the South Course under this CIP have included irrigation system renovation, new tee box construction, turf replacement, cart path work, new yardage markers and miscellaneous site furnishings at a total cost of \$1,320,800. Current improvements to the South Course, in preparation for the 2008 US Open Golf Championship, mainly consist of turf replacement and work to improve conditions of play as prescribed in the Lease Agreement. All of these improvements will be permanent enhancements to the golf course beyond the US Open event. Resolutions No. 1, 2, and 3 reflect these improvements for a total cost of \$1,204,780.17. This amount includes the base contract (\$621,393.46), Construction Change Order No. 1 (\$199,753.18) to address additional turf replacement, and Construction Change Order No. 2 (\$383,633.53) is required to complete the original scope of work including additional turf replacement, new tee construction and additional cart path re-routing and installation.

Since time was of essence to complete these improvements, the contractor was authorized to proceed with the work to save the cost of demobilization and re-mobilization, and schedule

impacts. To pay for these completed improvements, additional funding of \$350,000 within this project is needed. These costs include staff project management costs. Resolutions No. 4 and 5 reflect additional improvements to address deferred maintenance issues on existing structures. These proposed improvements to the existing halfway house and restroom facilities require additional funding of \$250,000 within this CIP. These costs include staff project management costs.

Improvements within CIP-25-018.0, Torrey Pines Golf Course - Existing Clubhouse

Maintenance Requirements - Completed work includes paving of the patio area and cart staging area, for a total cost of \$246,604.95. Resolutions No. 6 and 7 reflect a Task Order Modification for an expanded scope of work including paving the patio area and cart staging area for a total cost of \$71,732.26. Since time was of essence to complete these improvements, the contractor was authorized to proceed with the work to save the cost of demobilization and re-mobilization, and schedule impacts. Additional funding of \$80,000 within this project is needed to pay for these improvements which have been approved and completed. These costs include staff project management costs.

Resolutions No. 8 and 9 reflect additional improvements to address elements identified as part of the club house master planning. These improvements are currently planned for completion prior to the US Open Championship. The proposed improvements include construction of a starter booth, snack cart concrete pad and fencing, new planters and a course map which require additional funding of \$320,000 within this project. These costs include staff project management costs.

FISCAL CONSIDERATIONS:

Funding in the amount of \$1,000,000 is available in Fund # 41400, Golf Enterprise Fund, for these actions. The remaining fund balance after this transfer will be approximately \$4,500,000.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

- October 14, 2002 - City Council approval of the Lease Agreement with the Friends of Torrey Pines, LLC, for the use of the Torrey Pines Golf Course for the 2008 US Open Championship (R-297193).
- January 11, 2005 - City Council approval of CIP-25-012.0, Torrey Pines Golf Course South Course Renovation (R-300047).
- \$1,200,000 appropriation for the South Course Renovation through the FY 2006 budget process.
- July 5, 2006 - City Council adoption of the Golf Operations Five Year Business Plan (R-301581).
- November 21, 2006 - City Council approval of CIP-25-018.0, Torrey Pines Golf Course – Existing Clubhouse Maintenance Requirements with an appropriation of \$400,000; transfer

of \$1,000,000 from CIP-25-005.0, Torrey Pines Golf Course - North Course Improvements to CIP-25-012.0, Torrey Pines Golf Course - South Course Improvements (R-302101).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Many of the completed and proposed improvements have been discussed at various community forums including the Golf Advisory Committee, Council Committee and City Council.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

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

Jarrell/Haas

Aud. Cert. 2800165.

FILE LOCATION: CON'T- Kubly Golf Course Construction Inc.

COUNCIL ACTION: (Time duration: 3:51 p.m. – 3:55 p.m.)

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



ITEM-332: 4724 30th Street Vesting Tentative Map, application for a Vesting Tentative Map to convert 7 existing residential units to condominiums on a 0.1606 acre-site located at 4724 30th Street. (Greater North Park Community Plan Area. District 3.)

Matter of the appeal by D. Scott Peters from the decision of the Planning Commission denying an application for a Vesting Tentative Map to convert 7 existing residential units to condominiums, including a request to waive the requirement to underground existing overhead utilities on a 0.1606-acre site located at 4724 30th Street in the MR-3000 Zone of the Mid-City Communities Planned District and the Transit Area Overlay Zone, within the Greater North Park Community Plan Area.

Should the condominium conversion project be approved, tenants may be required to vacate the premises. No units may be sold in this building unless the

conversion is approved by the City and until a public report is issued by the Department of Real Estate. Each tenant has the exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

The project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) March 15, 2006. An appeal of the CEQA determination was previously made and the City Council denied the CEQA appeal on July 31, 2006. The scope of the subject hearing only includes the project, and not the environmental determination.

(Vesting Tentative Map No. 318764/Project No. 97621.)

STAFF'S RECOMMENDATION:

Take the following action:

(R-2008-) GRANTED APPEAL/APPROVED VESTING
TENTATIVE MAP; ADOPTED AS RESOLUTION
R-303089

Adoption of a Resolution granting or denying the appeal, and granting or denying Vesting Tentative Map No. 318764, including the request to waive the requirement to underground existing overhead utilities, with appropriate findings to support Council actions;

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

OTHER RECOMMENDATIONS:

Planning Commission on May 31, 2007, voted 6-0-1 to deny; no opposition.

Ayes: Schultz, Garcia, Ontai, Otsuji, Naslund, Griswold
(One vacancy)

The Greater North Park Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

A Vesting Tentative Map for the conversion of 7 existing residential units to condominiums at 4724 30th Street, within the Greater North Park Community Plan Area.

STAFF RECOMMENDATION:

Grant the appeal and **approve** the Vesting Tentative Map, including the request to waive the requirement to underground existing overhead utilities.

EXECUTIVE SUMMARY:

Granting the appeal would allow the applicant to process their Final Map and convert the existing apartment units to condominiums.

Basis for Appeal: The applicant's appeal form indicates the project is in compliance with applicable laws and should be approved. The applicant states, "This project was deemed complete on March 8, 2006. Applicant is exempt from new ordinance requiring Landscaping and Building Condition Report Requirements due to this project being included in the Cory Briggs Lawsuit. Applicant did not comply with Planning Commission Voluntary Conditions because he does not want his Final Map approval to be contingent upon completing upgrades, as he will likely not convert for many years." (Attachment 2).

Staff Response:

Staff concurs with the applicant's request. The Planning Commission's decision to deny the proposed Tentative Map was based on Finding No. 2, which states: "The decisionmaker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources." Staff believes the intent of this required finding is to respond to leapfrog development and to provide necessary public facilities for additional housing in communities. In this instance, there is no net loss or gain of housing units. The property owner of the existing complex is requesting a change in the form of ownership from single ownership to multiple ownerships. The subject project does not include any physical changes in the environment or any intensification of use.

This project is subject to the "old code" condominium conversion regulations. The project was part of the original 76 CEQA appeals by Cory Briggs. The City Council, when enacting the "new" condominium conversion regulations on June 13, 2006, specifically permitted these projects to follow the "old code" regulations. For "old code" projects, the Planning Commission

has requested applicants to voluntarily provide Building Condition Reports and Landscape Concept Plans.

In this instance, the applicant elected not to provide the voluntary Building Conditions Report and Landscape Concept Plan requested by the Planning Commission for “old code” projects. The applicant expressed a desire to move through the system with the original requirements, and expressed a willingness to accept a denial and move forward to the City Council. The Planning Commission respected the honesty, and moved denial. Commissioner Griswold expressed concern that the applicant was attempting to circumvent Commission procedures and to make the Planning Commission a non-factor by not offering their analysis to the City Council. The applicant indicated the owner’s intention was to prepare the documents and perform the work; the owner just did not want these to be conditions of the Vesting Tentative Map.

The appeal was filed by Scott Peters of Sterling Land Services, representing the applicant, on June 7, 2007.

Please reference Report to the Planning Commission No. PC-07-081 for project details (Attachment 1).

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Greater North Park Planning Committee voted 9-0-0 to recommend approval of the proposed project on March 5, 2007, with no additional recommendations. Other than the applicant, no other speakers were present at the Planning Commission hearing, and no other communications were received.

The Planning Commission heard the project on February May 31, 2007. After a presentation by the applicant, and a discussion by the Planning Commission, a motion to deny the project was made by Commissioner Ontai and seconded by Commissioner Griswold. The vote was 6-0 (with Commissioners Schultz, Garcia, Griswold, Ontai, Otsjui and Naslund voting in opposition to the project; one Commissioner seat was vacant).

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

As described above, the CEQA determination of exemption was appealed by Cory Briggs of Briggs Law. On July 31, 2006, the City Council denied the CEQA appeal by Resolution No. R-301777. That denial permitted the project to move forward through the review and hearing process.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

The property owner is Richard Mansur, Trustee of the Richard Mansur Trust of 2004.

The applicant's engineer is Sterling Land Services, Inc. Scott Peters of that firm has been representing the applicant. Other key stakeholders include the property tenants.

Escobar-Eck/Waring/MS

Staff: Michelle Sokolowski – (619) 446-5278

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:12 p.m.)

Testimony in opposition by Barbara Winton.

MOTION BY ATKINS TO GRANT THE APPEAL AND APPROVE VESTING TENTATIVE MAP NUMBER 318764. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-333: **NOTE:** This item has been taken off the docket.



ITEM-334: 2005 Grand Vesting Tentative Map, application for a Coastal Development Permit and Tentative Map, to convert an existing 10 residential dwelling unit apartment complex into 10 residential condominium units on a 0.287 acre site, located at 2005-2015 Grand Avenue. (Pacific Beach Community Plan Area. District 2.)

Matter of the appeal by Christopher C. Christensen from the decision of the Planning Commission denying an application for a Coastal Development Permit and Tentative Map, including a request to waive the requirement to underground the existing utilities and to convert an existing, 10 residential dwelling unit apartment complex into 10 residential condominium units on a 0.287 acre site.

The property is located at 2005-2015 Grand Avenue, in the RM-2-5 Zone, Coastal Overlay Zone (non-appealable), Coastal Height Limit Overlay Zone and within the Pacific Beach Community Plan Area.

Should the condominium conversion project be approved, tenants may be required to vacate the premises. No units may be sold in this building unless the conversion is approved by the City and until after a public report is issued by the Department of Real Estate. Each tenant has the exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

The project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) on October 3, 2005 and the opportunity to appeal that determination ended October 18, 2005. The scope of the subject hearing only includes the project, and not the environmental determination.

(Coastal Development Permit No. 263783/Vesting Tentative Map No. and Waiver of Undergrounding No. 259966/Project No. 82815.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2008-374) **GRANTED APPEAL/GRANTED COASTAL
DEVELOPMENT PERMIT; ADOPTED AS
RESOLUTION R-303090**

Adoption of a Resolution granting or denying the appeal and granting or denying Coastal Development Permit No. 263783 , with appropriate findings to support Council action;

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

Subitem-B: (R-2008-375) GRANTED APPEAL/APPROVED VESTING
TENTATIVE MAP; ADOPTED AS RESOLUTION
R-303091

Adoption of a Resolution granting or denying the appeal and granting or denying Vesting Tentative Map and Waiver of Undergrounding No. 259966, with appropriate findings to support Council actions;

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

OTHER RECOMMENDATIONS:

Planning Commission on May 10, 2007, voted 5-1-1 to deny.

Ayes: Schultz, Garcia, Otsuji, Naslund, Griswold

Nay: Ontai
(One vacancy)

The Pacific Beach Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the Planning Commission's denial of a Coastal Development Permit, Tentative Map, and Waiver of Undergrounding of Utilities to allow for the conversion of ten existing dwelling units to condominium ownership on a 12,500 square-foot site zoned RM-2-5 at 2005 – 2015 Grand Avenue within the Pacific Beach Community Planning area.

STAFF RECOMMENDATION:

APPROVE the appeal and approve Coastal Development Permit No. 263783 and Vesting Tentative Map and Waiver of Undergrounding No. 259966.

EXECUTIVE SUMMARY:

The 2005 Grand Vesting TM project proposes to convert ten residential dwelling units to condominium ownership. The request to waive the undergrounding of existing overhead utilities complies with the City Council's Policy No. 600-25 for the granting of the request. The City Council's regulations for condominium conversions, adopted on June 13, 2006, had not been

certified by the California Coastal Commission at the time the Planning Commission acted on this project and are therefore not applicable to this project.

The applicant is appealing the Planning Commission's decision to deny the project based on their non-acceptance of the submitted Building Conditions Report provided voluntarily by the applicant. At the time of the Planning Commission's decision, the new condominium conversion regulations requiring a Property Conditions Report were not in effect due to the project's location within the Coastal Zone. There is no legal requirement for a Building Conditions Report.

The appeal filed by the applicant (ATTACHMENT 2) contends that the project complies with all applicable City laws pertaining to Tentative Map and Coastal Development procedures in effect at the time of application. City Staff has not reviewed the Property Conditions Report as it was submitted directly to the Planning Commission for their review one week prior to the hearing.

The San Diego Housing Commission has determined that an in-lieu fee of \$15,500.00 is required under the City of San Diego Affordable Housing requirements of the Inclusionary Housing Ordinance. All findings required for approval of the project by the City Council are contained in the Tentative Map and Coastal Development Permit Resolutions attached to the Report to the Planning Commission No. PC-07-052.

FISCAL CONSIDERATIONS:

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

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On May 10, 2007, the Planning Commission voted 5-1-1 to deny these actions based on Finding No. 2 of the Tentative Map Resolution No. 4254-PC. Finding No. 2 requires the decision-maker to consider the effects of the subdivision on the housing needs of the region balanced against the needs for public services, and fiscal and environmental resources. The Planning Commission requests that applicants voluntarily submit a Building Conditions Report and agree to implement repairs and upgrades as recommended prior to map recordation.

In denying the condo conversion members of the Planning Commission expressed concern that the existing structure was in only fair condition and that the proposed physical improvements as stated in the Property Conditions Report did not meet their expectations in order to satisfy all the necessary Tentative Map Findings.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Pacific Beach Community Planning Committee voted 10-3-0 on January 25, 2006, to recommend approval of this application with a clarification regarding the on-site parking.

KEY STAKEHOLDERS:

Mazi Properties, Limited Partnership, Owner/Applicant.

Boekamp/Anderson/GG

Staff: Glenn Gargas – (619) 446-5142

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:13 p.m.)

Testimony in opposition by Barbara Winton.

MOTION BY FAULCONER TO GRANT THE APPEAL AND GRANT COASTAL DEVELOPMENT PERMIT NUMBER 263783 IN SUBITEM A AND APPROVE VESTING TENTATIVE MAP AND WAIVER OF UNDERGROUNDING NUMBER 259966 IN SUBITEM B. 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-335: NOTE: This item has been taken off the docket.



ITEM-S500: Agreement with Project Design Consultants for Regents Road Bridge and Limited Roadway Changes Project. (University Community Area. District 1.)

(See memorandum from R. F. Haas dated 10/5/2007; letter from Shute, Mihaly & Weinberger, LLP dated 8/31/2007; 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 meetings of 9/18/2007, Item 52, and 10/9/2007, Item 53, last continued at the request of Council President Peters, 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) ADOPTED AS ORDINANCE O-19673
(New Series)

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: MEET

COUNCIL ACTION: (Time duration: 11:47 a.m. – 11:49 a.m.)

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

* ITEM-S501: Extension of the Downtown Parking Pilot Program.

(See memorandum from William Anderson dated 10/11/2007. Cortez Hill, Downtown, East Village, Little Italy, and the Marina Community Areas. District 2.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2008-49) INTRODUCED, TO BE ADOPTED ON TUESDAY,
OCTOBER 30, 2007

Introduction of an Ordinance amending Chapter 8, Article 6, Division 11, of the San Diego Municipal Code, by amending Section 86.11, relating to Parking Meter Rates, to establish a range for hourly parking meter rates from \$0.50 to \$1.25 within the Downtown Parking Pilot Program, as described in Resolution No. R-299867, effective November 22, 2004 and terminating on April 30, 2009;

Instructing the City Clerk to remove Section 86.11(c) from the text of the Municipal Code on the termination date.

STAFF SUPPORTING INFORMATION:

On November 24, 2004, City Council approved the Downtown Parking Pilot Program (Pilot). The goal of the Pilot was to provide information and sample techniques that would optimize the use of on-street parking in the downtown area and that could later be applied citywide. The Pilot authorized the Downtown Parking Management Group [DPMG] to work with City staff as the advisory body to test on-street parking management strategies as well explore the use of new parking meter technology in selected parts of East Village, Marina, Cortez, and Little Italy.

The management strategies include adjusting the hourly parking meter rates and parking time limits as well as using multi-space pay stations in place of mechanical single-head meters. The new strategies have allowed the DPMG to adjust time limits from one-hour to nine-hour durations and to modify meter rates from \$.50 to \$1.25 per hour to achieve a target utilization rate of 85 percent (15 percent vacancy) -- the optimal point at which parking supply is maximized yet there remains a sufficient level of parking available to motorists. In addition, 50 multi-space pay stations were installed allowing motorists to pay with credit cards, coins and prepaid value cards. The new pay stations are controlled remotely and offer the flexibility needed to adjust time restrictions and rates based on demand during peak seasons and special events.

Reports by the DPMG and City staff have pointed towards an increase in on-street parking utilization rates and the associated parking revenue. However, additional time is necessary for staff to evaluate the complete effect of the Pilot and provide City Council with refined recommendations based on the findings from the Pilot. The Pilot is scheduled to sunset on November 26, 2007. Staff recommends that the Pilot to continue without interruption until a full evaluation is completed; and, to that end requests an extension of the Pilot until April 30, 2009.

FISCAL CONSIDERATIONS:

There is no negative fiscal impact to the City by extending the Downtown Parking Pilot Program.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Council District II formed the Downtown Parking Management Group to implement ideas from the City Manager's Parking Task Force on March 18, 2004 (Report No. 04-061). The City Council later passed Resolution R-299867 on November 29, 2004 and Ordinance O-19343 on December 12, 2004, granting the City Manager the authority to vary the time limits and meter rates for the Pilot within the test areas identified in the DPMG Report #1 (East Village, Marina, Cortez, and Little Italy). The Pilot was previously extended to November 26, 2007, by Ordinance Number O-19493 on May 19, 2006.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The DPMG represents community stakeholders from the Downtown Residents Group, Cortez Residents, Gaslamp Quarter Association, Downtown San Diego Partnership, Centre City Advisory Committee, San Diego Padres, Little Italy, East Village, and the Centre City Development Corporation. They hold monthly meetings, open to the public and attended by City staff and interested community members.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The Downtown Residents Group, Cortez Residents, Gaslamp Quarter Association, Downtown San Diego Partnership, Centre City Advisory Committee, San Diego Padres, Little Italy, East Village, and the Centre City Development Corporation.

Kessler/Anderson

Staff: Melisa Tintocalis - (619) 236-6476
John C. Hemmerling - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. 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-S502: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

(See memorandum from Jay M. Goldstone dated 10/11/2007.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-312) ADOPTED AS RESOLUTION R-303086

Declaring a continued state of emergency to persist relative to the landslide on Mount Soledad, pursuant to California Government Code Section 8630;

Declaring that the measures previously authorized by the City Council in Resolution No. R-303041 shall continue to have full force and effect.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:31 a.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-yea, Madaffer-yea, Hueso-yea.



ITEM-S503: Amendment to the Statement of Fiscal Year 2008 Budgetary Principles.

(See Independent Budget Analyst Report No. 07-81; and Independent Budget Analyst Reports 07-94 and 07-97 [not available at Committee].)

(Continued from the meeting of October 9, 2007, Item 330, at the request of Council President Peters, for further review.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-255) ADOPTED AS AMENDED AS RESOLUTION R-303092

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

BUDGET AND FINANCE COMMITTEE'S RECOMMENDATION:

On 9/12/2007, Budget voted 4 to 0 to forward to the full City Council the Independent Budget Analyst's revised recommended Statement of Fiscal Year 2008 Budgetary Principles with the following changes: The Airport Enterprise Fund and Development Services will be designated as Major Funds. With respect to the Mayor's written notice to the City Council of cumulative cuts to either the General Fund or a Major Fund of 3% or more, the term "as soon as practicable" shall be deleted and replaced with "as part of the Auditor's reports as required by Charter Section 39." (Councilmembers Faulconer, Atkins, Frye, and Madaffer voted yea. Councilmember Peters not present.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:55 p.m. – 4:00 p.m.)

MOTION BY FRYE TO ADOPT THE RESOLUTION AS AMENDED TO ADD THE FOLLOWING LANGUAGE TO THE MOTION FROM THE BUDGET AND FINANCE COMMITTEE MEETING, "AND ALSO AS PART OF THE MAYOR'S QUARTERLY REPORT TO THE COUNCIL." Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 4:02 p.m. in honor of the memory of:

Everett Bobbitt at the request of Council Member Atkins.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:00 p.m. - 4:02 p.m.)