

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, FEBRUARY 4, 2008
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Table of Contents

CHRONOLOGY OF THE MEETING.....	3
ATTENDANCE DURING THE MEETING	3
ITEM-1: ROLL CALL.....	4
ITEM-10: INVOCATION	4
ITEM-20: PLEDGE OF ALLEGIANCE.....	4
CLOSED SESSION ITEMS.....	5
ITEM-150: City Attorney’s Ballot Proposal to Amend the City Charter Related to Mandatory Recycling Ordinance and Recycling Fee.....	7
ITEM-200: Four actions related to Municipal Primary Election and Special Municipal Election on June 3, 2008.....	8
ITEM-201: Two actions relating to Submitting to the Voters a Ballot Proposition Amending the City Charter to Exempt from the Managed Competition Process the Services Provided by Police Officers, Firefighters, and Lifeguards	11
ITEM-202: Two actions relating to Submitting to the Voters a Ballot Proposition Amending the City Charter to Make the Strong Mayor Form of Government Permanent, Add a Ninth Council District, and Increase the Number of Council Votes Necessary to Override a Mayoral Veto	13
ITEM-203: Two actions relating to Submitting to the Voters a Ballot Proposition Amending the City Charter to Modify the Salary Setting Process for All Elected City Officials by Authorizing a Salary Setting Commission to Establish the Salaries of All the Elected Officials.....	14
ITEM-204: Two actions relating to Submitting to the Voters a Ballot Proposition Amending the City Charter Relating to the Chief Financial Officer, City Treasurer, Independent Budget Analyst, Audit Committee, and City Auditor, and Requiring a Balanced Budget	16

ITEM-205: Amending the San Diego Municipal Code to Create a New Division 2 Titled
“Video Service Provider Fees and Customer Service Regulations for State
Franchise Video Service Providers” 17

ITEM-250: SUBMISSION OF BALLOT PROPOSALS..... 19

ITEM-251: ARGUMENTS SUPPORTING OR OPPOSING PROPOSITIONS..... 20

ITEM-252: **Notice** of Pending Final Map Approval - 4776 Lamont Street Condominiums... 21

REPORT OUT OF CLOSED SESSION 22

NON-DOCKET ITEMS 22

ADJOURNMENT..... 22

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:07 p.m. Council President Peters recessed the meeting at 3:20 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:25 p.m. with Council Member Hueso not present. Council President Peters recessed the meeting at 4:01 p.m. for the purpose of break. Council President Peters reconvened the meeting at 4:03 p.m. with Council Member Hueso not present. The meeting was adjourned by Council President Peters at 5:25 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-not present-Excused by R-303433;due to illness
- Clerk-Maland (sr)

FILE LOCATION: MINUTES



ITEM-1: ROLL CALL

Clerk Maland called the roll:

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

FILE LOCATION: MINUTES



ITEM-10: INVOCATION

Invocation was given by Ray Regno of Horizon Christian Fellowship.

FILE LOCATION: MINUTES



ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Faulconer.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

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

- CS-1 *In The Matter of: Natural Gas Anti-Trust Cases I, II, III & IV*
(Relating to City of San Diego v. Sempra, et al.)
Re: All Price Indexing Cases, JCCP Nos. 4221, 4224, 4226, and 4228**

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 5, 2008

DCA Assigned: F. Ortlieb

This matter involves a pending consolidated action suit against retail sellers of natural gas for anti-competitive acts and unfair business practices in 2000 and 2001. In Closed Session, the City Attorney will discuss recommended settlements proposed for Sempra defendants (Sempra Energy, Sempra Energy Trading, Southern California Gas Company, and San Diego Gas & Electric Company).

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:18 p.m.)

Council President Peters closed the hearing.

- CS-2 *City of San Diego v. Sunroad Enterprises, et al.*
San Diego Superior Court Case No. GIC 877054**

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 5, 2008

DCA Assigned: C. Brock

Case No. GIC 877054 was initiated by the City Attorney to abate the public nuisance created by Sunroad Enterprises' construction of a 12 story, 180 foot building which has been declared a "hazard" to air navigation at the City's Montgomery Field Airport by the Federal Aviation Administration ("FAA") Sunroad Enterprises cross-complained against the City claiming the City issued permits for the building and is responsible for any monetary loss Sunroad may incur. The City Attorney and outside counsel, Latham & Watkins, will discuss the status of the pending litigation and associated costs.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:18 p.m.)

Council President Peters closed the hearing.

**CS-3 *Zucchet, et al. v. City of San Diego*
San Diego Superior Court, Case No. 857389**

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 5, 2008

DCA Assigned: J. Cordileone

Plaintiffs seek reimbursement of attorney fees incurred defending a case filed against them by the City of San Diego. The City Attorney will discuss possible settlement of the case in Closed Session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:18 p.m.)

Council President Peters closed the hearing.

Conference with Labor Negotiator, pursuant to Government Code Section 54957.6:

CS-4 Agency negotiator: Steven Berliner, Richard Kreisler, Lisa Briggs, Scott Chadwick, Tanya Tomlinson, Thom Harpole, Abby Jarl, Hadi Dehghani, Val VanDeweghe, Jessica Falk Michelli, William Gersten, and L. Thacker

Employee organizations: Local 145 International Association of Firefighters
AFL-CIO, San Diego Police Officers Association,
Municipal Employees Association, AFSCME Local 127
AFL-CIO and Deputy City Attorney Association.

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 5, 2008

DCAs Assigned: W. Gersten/J. Falk Michelli/L. Thacker

Discuss with City Council pending contract negotiations with employee unions (Police Officers Association, International Association of Firefighters Local 145, Municipal Employees Association, AFSCME Local 127 and the Deputy City Attorney's Association).

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:18 p.m.)

Council President Peters closed the hearing.



ITEM-150: City Attorney's Ballot Proposal to Amend the City Charter Related to Mandatory Recycling Ordinance and Recycling Fee.

(See memorandum from the City Clerk dated 7/6/2007.)

TODAY'S ACTIONS ARE:

Introduce and adopt the following ordinance in Subitem A and consider Subitem B:

Subitem-A: (O-2008-101) REFERRED TO NATURAL RESOURCES
AND CULTURE COMMITTEE

Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide Primary Election to be held on June 3, 2008, one proposition amending the City Charter by amending Article VII, by adding Section 115, regarding the mandatory recycling of solid waste generated within the City.

Subitem-B: (R-2008-641) REFERRED TO NATURAL RESOURCES
AND CULTURE COMMITTEE

Directing the City Attorney to prepare a ballot title, summary, and impartial analysis; directing the Mayor to prepare a fiscal analysis; and assigning authorship of the ballot argument; all regarding the ballot measure to provide for mandatory recycling of solid waste generated within the City.

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

On 1/23/2008, Rules Committee voted 4 to 0 to reject all ballot proposal submissions, except the City Attorney's Mandatory Recycling Ordinance and Recycling Fee ballot proposal. Request the School Board Election reform issue come back to the Rules Committee at a later date. (Councilmembers Peters, Frye, Madaffer, and Hueso voted yea. Councilmember Young not present.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:28 p.m. – 2:36 p.m.)

MOTION BY FRYE TO REFER TO NATURAL RESOURCES AND CULTURE COMMITTEE WITHIN 90 DAYS WITH DIRECTION THAT THE ENVIRONMENTAL SERVICES DEPARTMENT PROVIDE A FINANCIAL AND LEGAL ANALYSIS. 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-200: Four actions related to Municipal Primary Election and Special Municipal Election on June 3, 2008.

CITY CLERK'S RECOMMENDATION:

Introduce and adopt the following ordinances in Subitems A and B; and adopt the resolutions in Subitems C and D:

Subitem-A: (O-2008-103) INTRODUCED AND ADOPTED AS O-19712
(NEW SERIES)

Introduction and adoption of an Ordinance calling a Municipal Primary Election in the City of San Diego on Tuesday, June 3, 2008, for the purpose of nominating candidates for Mayor, City Attorney, and Council Districts 1, 3, 5, and 7. It is hereby ordered that, in the event one (1) candidate receives a majority of votes cast for all candidates for nomination to the Office of Mayor, City Attorney, or to a particular Council District seat, the candidate receiving the majority of votes shall be deemed to be and declared by the Council to be elected to such office, all in accordance with Charter Section 10. The Municipal Primary Election called for June 3, 2008, is hereby ordered consolidated with the Statewide Primary Election to be held on the same date.

Subitem-B: (O-2008-102) INTRODUCED AND ADOPTED AS O-19713
(NEW SERIES)

Introduction and adoption of an Ordinance calling a Municipal Special Election in the City of San Diego on June 3, 2008, for the purpose of submitting to the qualified voters of the City of San Diego one or more ballot propositions and consolidating the Municipal Special Election with the Statewide Primary Election to be held on the same date.

Subitem-C: (R-2008-637) ADOPTED AS RESOLUTION R-303370

Requesting the Board of Supervisors to consolidate the Municipal Primary Election for the offices of Mayor, City Attorney, and Councilmember for Districts 1, 3, 5, and 7 to be held in the City of San Diego on June 3, 2008 with the Statewide Primary Election to be held on the same date;

Authorizing the City Auditor and Comptroller to reimburse the County of San Diego for the actual and direct cost of the services performed by the Registrar of Voters for the City of San Diego in connection with the election services, 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;

Agreeing to indemnify and to save free and harmless the County, its officers, agents, and employees from expense or liability, including reasonable attorney fees, as the result of an election contest initiated pursuant to the California Elections Code Sections 16000 through 16900.

Subitem-D: (R-2008-640) ADOPTED AS RESOLUTION R-303371

Requesting the Board of Supervisors to consolidate the Municipal Special Election to be held in the City of San Diego on June 3, 2008 with the Statewide Primary Election to be held on the same date;

Authorizing the City Auditor and Comptroller to reimburse the County of San Diego for the actual and direct cost of the services performed by the Registrar of Voters for the City of San Diego in connection with the election services, 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;

Agreeing to indemnify and to save free and harmless the County, its officers, agents, and employees from expense or liability, including reasonable attorney fees, as the result of an election contest initiated pursuant to the California Elections Code Sections 16000 through 16900.

SUPPORTING INFORMATION:

This to request that the City Council adopt ordinances calling a Municipal Primary Election and a Municipal Special Election as well as resolutions requesting the consolidation of these elections with the Statewide Primary Election to be held on June 3, 2008. The resolutions for both the Municipal Primary and Municipal Special Election requesting consolidation include a request for the services of the Registrar of Voters.

The Municipal Primary Election will be held for the purpose of conducting elections for Mayor, City Attorney, and Councilmembers for Districts 1, 3, 5, and 7. The Municipal Special Election will be held for the purpose of conducting elections for any and all propositions the Council approves for placement on the ballot.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable): N/A

Maland

Aud. Cert. 2800532.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:09 p.m. – 2:11 p.m.)

MOTION BY MADAFFER TO INTRODUCE, DISPENSE WITH THE READING AND ADOPT THE ORDINANCES IN SUBITEMS A AND B AND TO ADOPT THE RESOLUTIONS IN SUBITEMS C AND D. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-not present.



ITEM-201: Two actions relating to Submitting to the Voters a Ballot Proposition Amending the City Charter to Exempt from the Managed Competition Process the Services Provided by Police Officers, Firefighters, and Lifeguards.

(See City Attorney Reports dated 1/29/2008, 1/14/2008, and 11/2/2007.)

CITY ATTORNEY'S RECOMMENDATION:

Introduce and adopt the following ordinance in Subitem A and consider Subitem B:

Subitem-A: (O-2008-92 Cor. Copy) INTRODUCED AND ADOPTED
AS O-19714 (NEW SERIES)

Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide Primary Election to be held on June 3, 2008, one proposition amending the City Charter by amending Article VII, Section 117 to exempt from the managed competition process the City service provided by participants in the City's Safety Retirement System.

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

Subitem-B: (R-2008-625) ADOPTED AS AMENDED AS RESOLUTION R-303372

Directing the City Attorney to prepare a ballot title, summary, and impartial analysis; directing the Mayor to prepare a fiscal analysis; and assigning authorship of the ballot argument; all regarding the ballot measure on exempting from the Managed Competition process the City services provided by participants in the City's Safety Retirement System.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:38 p.m. - 3:20 p.m.)

MOTION BY MADAFFER TO INTRODUCE, DISPENSE WITH THE READING AND ADOPT THE ORDINANCE IN SUBITEM A. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

MOTION BY MADAFFER TO ADOPT THE RESOLUTION IN SUBITEM B AS AMENDED BY DIRECTING THE CITY ATTORNEY TO PREPARE A BALLOT TITLE AND SUMMARY AND TO ASSIGN AUTHORSHIP OF THE BALLOT ARGUMENT TO THE MAYOR. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

MOTION BY MADAFFER TO CONTINUE THE ISSUE OF WHETHER TO REQUEST THAT THE CITY ATTORNEY PREPARE AN IMPARTIAL ANALYSIS IN SUBITEM B TO FEBRUARY 25, 2008. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-not present.

MOTION BY MADAFFER TO ADOPT THE RESOLUTION IN SUBITEM B AS AMENDED BY DIRECTING THE MAYOR TO CONDUCT A FISCAL ANALYSIS ON ALL BALLOT MEASURES IN CONSULTATION WITH THE INDEPENDENT BUDGET ANALYST. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.



ITEM-202: Two actions relating to Submitting to the Voters a Ballot Proposition Amending the City Charter to Make the Strong Mayor Form of Government Permanent, Add a Ninth Council District, and Increase the Number of Council Votes Necessary to Override a Mayoral Veto.

(See City Attorney Reports dated 1/29/2008, 1/14/2008, and 11/2/2007.)

CITY ATTORNEY'S RECOMMENDATION:

Introduce and adopt the following ordinance in Subitem A and consider Subitem B:

Subitem-A: (O-2008-93 Cor. Copy) INTRODUCED AND ADOPTED
AS O-19715 (NEW SERIES)

Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide Primary Election to be held on June 3, 2008, one proposition amending the City Charter by amending Article XV, Section 255, to require the Council to place on the June 2010 Ballot Charter amendments related to making the Strong Mayor Form of Government permanent; increasing the number of Council districts from eight to nine; and increasing the number of Council votes required to override a Mayoral veto.

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

Subitem-B: (R-2008-628) ADOPTED AS AMENDED RESOLUTION R-303373

Directing the City Attorney to prepare a ballot title, summary, and impartial analysis; directing the Mayor to prepare a fiscal analysis; and assigning authorship of the ballot argument; all regarding the ballot measure to require the Council to place on the June 2010 ballot Charter amendments related to making the Strong Mayor Form of Government permanent, adding a ninth Council District, and increasing the number of Council votes necessary to override a Mayoral veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:28 p.m. - 4:00 p.m.)

MOTION BY MADAFFER TO INTRODUCE, DISPENSE WITH THE READING AND ADOPT THE ORDINANCE IN SUBITEM A. 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.

MOTION BY MADAFFER TO ADOPT THE RESOLUTION IN SUBITEM B AS AMENDED BY DIRECTING THE CITY ATTORNEY TO PREPARE A BALLOT TITLE AND SUMMARY AND TO ASSIGN AUTHORSHIP OF THE BALLOT ARGUMENT TO THE COUNCIL PRESIDENT. 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.

MOTION BY MADAFFER TO CONTINUE THE ISSUE OF WHETHER TO REQUEST THAT THE CITY ATTORNEY PREPARE AN IMPARTIAL ANALYSIS IN SUBITEM B TO FEBRUARY 25, 2008. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-not present.

MOTION BY MADAFFER TO ADOPT THE RESOLUTION IN SUBITEM B AS AMENDED BY DIRECTING THE MAYOR TO CONDUCT A FISCAL ANALYSIS ON ALL BALLOT MEASURES IN CONSULTATION WITH THE INDEPENDENT BUDGET ANALYST. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.



ITEM-203: Two actions relating to Submitting to the Voters a Ballot Proposition Amending the City Charter to Modify the Salary Setting Process for All Elected City Officials by Authorizing a Salary Setting Commission to Establish the Salaries of All the Elected Officials.

(See City Attorney Reports dated 1/29/2008, 1/14/2008, and 11/2/2007.)

CITY ATTORNEY'S RECOMMENDATION:

Introduce and adopt the following ordinance in Subitem A and consider Subitem B:

Subitem-A: (O-2008-94) CONTINUED WITH DIRECTION TO MONDAY,
FEBRUARY 25, 2008

Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide Primary Election to be held on June 3, 2008, one proposition amending the City Charter by retitling and amending Article III, Section 12.1; repealing Article IV, Section 24.1; amending Article V, Sections 40 and 41.1; amending Article V, Sections 40 and 41.1; and amending Article XV, Section 280, all relating to setting the salaries of elected City officials.

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

Subitem-B: (R-2008-626) CONTINUED WITH DIRECTION TO MONDAY,
FEBRUARY 25, 2008

Directing the City Attorney to prepare a ballot title, summary, and impartial analysis; directing the Mayor to prepare a fiscal analysis; and assigning authorship of the ballot argument; all regarding the ballot measure modifying the salary setting process for all elected City officials by authorizing a Salary Setting Commission to establish the salaries of all elected officials.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 4:59 p.m. – 5:21 p.m.)

MOTION BY FRYE CONTINUE TO MONDAY, FEBRUARY 25, 2008, WITH DIRECTION FOR THE CITY ATTORNEY'S OFFICE AND INDEPENDENT BUDGET ANALYST TO PREPARE BALLOT MEASURE TO ESTABLISH BASE SALARY FOR MAYOR AND COUNCIL THAT WOULD GO TO THE VOTERS WITH CRITERIA THAT IS NOT RELATED TO THE COUNCIL OR ABILITY TO DIRECT OR CHANGE FUTURE INCREASES THAT ARE TIED TO A MEASURE SUCH AS THE COUNTY BOARD OF SUPERVISORS OR JUDGES' SALARY THAT CANNOT BE INFLUENCED AND TO ESTABLISH AN INCREASE THAT VOTERS CAN VOTE ON. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-nay, Atkins-yea, Young-yea, Maienschein-nay, Frye-yea, Madaffer-yea, Hueso-not present.



ITEM-204: Two actions relating to Submitting to the Voters a Ballot Proposition Amending the City Charter Relating to the Chief Financial Officer, City Treasurer, Independent Budget Analyst, Audit Committee, and City Auditor, and Requiring a Balanced Budget.

(See City Attorney Reports dated 1/29/2008, 1/14/2008, and 11/2/2007.)

CITY ATTORNEY'S RECOMMENDATION:

Introduce and adopt the following ordinance in Subitem A and consider Subitem B:

Subitem-A: (O-2008-95) TRAILED TO TUESDAY, FEBRUARY 5, 2008

Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide Primary Election to be held on June 3, 2008, one proposition amending the City Charter by amending Article V, Sections 39 and 45; amending Article VII, Sections 69 and 111; amending Article VIII, Section 117; amending Article XV, Sections 265 and 270; and adding Article V, Sections 39.1, 39.2, and 39.3; to establish the positions and duties of Chief Financial Officer, City Auditor and Independent Budget Analyst; modify the City Treasurer appointment process; create an Audit Committee; and require the Council to adopt a balanced budget and ensure a balanced budget by the end of each fiscal year.

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

Subitem-B: (R-2008-627) TRAILED TO TUESDAY, FEBRUARY 5, 2008

Directing the City Attorney to prepare a ballot title, summary, and impartial analysis; directing the Mayor to prepare a fiscal analysis; and assigning authorship of the ballot argument; all regarding the ballot measure relating to the Chief Financial Officer, City Treasurer, Independent Budget Analyst, Audit Committee, and City Auditor and requiring a balanced budget.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 4:08 p.m. - 4:59 p.m.)



ITEM-205: Amending the San Diego Municipal Code to Create a New Division 2 Titled "Video Service Provider Fees and Customer Service Regulations for State Franchise Video Service Providers".

(See Report to the City Council No. 08-006.)

MAYOR SANDERS' RECOMMENDATION:

Introduce the following ordinance:

(O-2007-118) INTRODUCED; TO BE ADOPTED TUESDAY,
FEBRUARY 19, 2008

Introduction of an Ordinance amending Chapter 7, Article 3, of the San Diego Municipal Code to create a new Division 2 titled "Video Service Provider Fees and Customer Service Regulations for State Franchised Video Service Providers". This ordinance sets forth the procedure for payment to the City of the state franchise fee of five percent (5%) of annual gross revenues that the Digital Infrastructure and Video Competition Act of 2006 established as compensation for the use of the public rights-of-way for the provision of video services, establishes a fee for the support of public, educational, and government access channel facilities, provides that the City may examine the business records of a state video franchise holder to the extent reasonably necessary to ensure accurate payment of compensation, provides that the City is to enforce all customer service and protection standards applicable under law with respect to complaints received from residents within the City's jurisdiction, and provides a schedule of penalties for any material breach of any applicable customer service and protection standards by a holder of a state franchise.

SUPPORTING INFORMATION:

The Governor approved AB 2987, the Digital Infrastructure and Video Competition Act of 2006 ("the Act") on September 29, 2006. The Act brings about dramatic changes to how video franchises are handled at the State and Local level. Up until the passage of the Act, video franchises were granted and administered at the local level. The City of San Diego currently has two local video franchisees-Cox Communications and Time Warner Cable. Effective January 1, 2007, the California Public Utilities Commission (CPUC) has the authority to grant state franchises for the provision of video service including cable television service and open-video systems. AT&T as well as Cox Communications applied for state video franchises and those requests were granted by the CPUC.

The proposed ordinances will update the Municipal Code to reflect changes brought about by the Act relative to Public Education and Government Channels (PEG) and enforcement of customer service standards.

In order to support PEG channels through a State franchise, the City may adopt an ordinance to establish a separate PEG support fee at any time, not to exceed 1% of gross revenues. PEG fees may be recovered by a State franchise holder as a separate line item on subscriber bills. Those fees can only be used to support PEG programming such as that carried on City TV 24. As part of its duty to enforce customer service standards, the City may adopt a schedule of provisions for any material breach of the customer service standards that is within the reasonable control of the State franchise holder. The City must provide written notice and at least 30 days from the receipt of the notice to cure the specified material breach.

FISCAL CONSIDERATIONS:

The amount of video franchise fees received by the City are not expected to change significantly in the foreseeable future. To the extent that Cox, Time Warner, and AT&T are successful in moving current broadcast only and satellite customers over to their systems, video franchise fees will increase. Regarding the potential PEG support fees, the impact is unknown at this time. As AT&T's customer base grows and the incumbent cable operators convert to a state franchise, the City's ability to fund PEG channel programming will be significantly increased and support funding will no longer have to rely solely on general fund revenues.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

June 12, 2006: Council received an update and discussion of pending State legislation (AB 2987 Statewide Cable TV Franchise) and its Potential Policy and Fiscal Impacts on Cities.

June 19, 2006: Council passed a resolution on Pending State Legislation (AB 2987 Statewide Cable TV Franchise) and its Potential Significant Policy and Fiscal Impacts on Cities.

December 6, 2007: Approved on consent by the Rules, Open Government and Intergovernmental Relations Committee.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Staff forwarded drafts of the proposed changes to the Municipal Code to Cox Communications, Time Warner Cable, and AT&T.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Cox Communications, Time Warner Cable, AT&T, and video customers within the City of San Diego.

Dubick/Goldstone

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:11 p.m. - 2:26 p.m.)

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

ITEM-250: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the June 3, 2008 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	1/18/08	137	LAST DATE (10:00 a.m.) for public, departments and agencies to submit ballot proposals to City Clerk for review by Rules Committee
Wednesday	1/23/08	132	Rules Committee review

Monday	1/28/08	127	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee
Monday	2/4/08	120	Council adopts propositions for ballot; directs City Attorney to prepare ordinances
Monday	2/25/08	99	Council adopts ordinances prepared by City Attorney
Friday	3/7/08	88	Last day for City Clerk to file with Registrar of Voters all elections material
Thursday	3/20/08	75	Last day to file ballot arguments with City Clerk

If you have questions, please contact the Office of the City Clerk at (619) 533-4025.

ITEM-251: ARGUMENTS SUPPORTING OR OPPOSING PROPOSITIONS

For propositions approved by the Council for submittal to the qualified voters of the City of San Diego at the Primary Election to be held on Tuesday, June 3, 2008, the City Clerk has fixed 12:00 p.m. (noon) on Thursday, March 20, 2008, as a reasonable date prior to such election after which no arguments for or against City Propositions may be submitted to the Clerk.

Any argument for or against any City proposition shall not exceed 300 words in length and may be filed by the Council, or any member or members of the Council authorized by the Council, or the bona fide sponsors or proponents of the measure, or any bona fide association of citizens or individual voter, or any combination of voters and associations.

All arguments must be accompanied by a statement signed by each author that the argument is true and correct to the best of his/her knowledge and belief. (Forms for this statement are available in the Office of the City Clerk.)

An argument shall not be accepted unless accompanied by the name or names of the person or persons submitting it, or if submitted on behalf of an organization, the name of the organization and the name of at least one of its principal officers. No more than five signatures shall appear with any argument submitted. In case any argument is signed by more than five persons, the signatures of the first five shall be printed.

Arguments may be changed or withdrawn by their proponents until and including the date fixed by the City Clerk.

Arguments shall be submitted to the City Clerk at the Office of the City Clerk, 2nd Floor, City Administration Building, 202 "C" Street, San Diego, California, 92101.

ITEM-252: Notice of Pending Final Map Approval - 4776 Lamont Street Condominiums.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "4776 Lamont Street Condominiums" (T.M. No. 257453/PTS No. 134761), located on the southwest corner of Lamont Street and Chalcedony Street in the Pacific Beach Community Plan Area in Council District 2, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

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

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

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 5:25 p.m. in honor of the memory of:

Pam Allison at the request of Council President Peters.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:22 p.m. – 5:25 p.m.)