

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, FEBRUARY 5, 2008
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:05 a.m. The meeting was recessed by Council President Peters at 12:02 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:06 p.m. with Council Member Faulconer, Council President Pro Tem Madaffer, and Council Member Hueso not present. Council President Peters recessed the meeting at 2:10 p.m. to convene the Housing Authority. Council President Peters reconvened the regular meeting at 2:15 p.m. with Council Member Hueso not present. Council President Peters recessed the meeting at 3:31 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:37 p.m. with Council Member Hueso not present. Council President Peters recessed the meeting at 4:30 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:35 p.m. with Council Member Maienschein and Council Member Hueso not present. Council President Peters recessed the meeting at 6:25 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 6:32 p.m. with Council Member Young and Council Member Hueso not present. The meeting was adjourned by Council President Peters at 6:49 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 (dlc/mz)

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-not present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:52 a.m. – 10:53 a.m.)

PUBLIC COMMENT-2:

Bob Kuczewski gave thanks to the City Council.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-3:

Hud Collins commented on the pension, finance and the war in Iraq.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-4:

Phil Hart commented on salaries.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:00 a.m. – 11:03 a.m.)

PUBLIC COMMENT-5:

Pastor Alfredo commented on inner city youth.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-6:

Elinor Rector commented on the future.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-7:

Bob Schmidt commented on the displaced people in San Diego.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-8:

David Ross commented on the homeless and veteran problem.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-9:

Helena Finkle commented on public facilities.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:19 a.m. - 11:22 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Atkins mentioned Chinese and Vietnamese New Year.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:42 a.m. – 10:43 a.m.)

COUNCIL COMMENT-2:

Council Member Frye invited the public to participate in the San Diego Municipal Employees Association Annual Blood Drive February 12, 2008 through February 15, 2008 at the City Administration Building beginning at 9:00. Council Member Frye also announced the meeting regarding the Foothill Toll Road Project to be held at the Del Mar Fairgrounds February 6, 2008 at 9:00 a.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:43 a.m. - 10:45 a.m.)

COUNCIL COMMENT-3:

Council President Pro Tem Madaffer commented on City Attorney Michael Aguirre.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:45 a.m. - 10:47 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Young Women's Christian Association of San Diego County Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-532) ADOPTED AS RESOLUTION R-303374

Thanking and congratulating the YMCA of San Diego County on one hundred years of providing indispensable services to women and families of the City of San Diego;

Proclaiming February 5, 2008, to be "Young Women's Christian Association of San Diego County Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:26 a.m.)

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

ITEM-31: Rick Smith Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-611) ADOPTED AS RESOLUTION R-303375

Proclaiming February 5, 2008, to be "Rick Smith 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: 10:28 a.m. – 10:32 a.m.)

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

ITEM-32: Mission Trails Regional Park Foundation Day.

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-568) ADOPTED AS RESOLUTION R-303376

Proclaiming February 5, 2008, to be "Mission Trails Regional Park Foundation Day" in the City of San Diego, and recognizing and saluting the Foundation for 20 years of providing support benefiting all people who use and enjoy Mission Trails Regional Park.

NON-AGENDA PUBLIC COMMENT

This portion of the agenda provides an opportunity for members of the public to address the Council on items of interest within the jurisdiction of the Council. (Comments relating to items on today's docket are to be taken at the time the item is heard.)

Time allotted to each speaker is determined by the Chair, however, comments are limited to no more than three (3) minutes **total per subject** regardless of the number of those wishing to speak. Submit requests to speak to the City Clerk **prior** to the start of the meeting. Pursuant to the Brown Act, no discussion or action, other than a referral, shall be taken by Council on any issue brought forth under "Non-Agenda Public Comment."

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:09 a.m. – 10:16 a.m.)

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

- * ITEM-50: Amending the San Diego Municipal Code Regarding Composition of the Disclosure Practices Working Group (DPWG).

(See Independent Analyst Report No. 08-6.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced as amended on 1/22/2008, Item S500. (Council voted 7-1. Councilmember Frye voted nay):

(O-2008-84 Rev. Cor. Copy)
(New

ADOPTED AS ORDINANCE O-19717
Series)

Amending the San Diego Municipal Code by amending Chapter 2, Article 2, Division 41, Sections 22.4101 through 22.4112, relating to organization of the Disclosure Practices Working Group, pursuant to the recommendations of the Kroll Report and the Independent Consultant.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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

- * ITEM-100: Awarding Rancho Peñasquitos Pump Station Design Build Contract to J.R. Filanc Construction Company. (Rancho Peñasquitos Community Area. District 1.)

(See Engineering and Capital Projects Department's 1/2/2008, Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-552) ADOPTED AS RESOLUTION R-303378

Approving the design build contract documents for the design and construction of the Rancho Peñasquitos Pump Station (formerly called Rancho Bernardo Pump Station);

Authorizing the expenditure of an amount not to exceed \$13,259,820, of which \$12,725,520 is from Water Fund 41500, CIP-73-342.0, for the Rancho Peñasquitos Pump Station's construction and related costs, and \$534,300 is from Water Fund 41500, CIP-73-331.0, Annual Allocation-Water Pooled Contingency for the purpose of providing funds for this project contingency, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that funds necessary for expenditure under established contract funding phases are, or will be, on deposit with City Treasurer;

Authorizing the Mayor, or his designee, to award a contract to, and to execute a construction contract in an amount not to exceed \$10,686,000 with J.R. Filanc Construction Company, and to establish contract funding phases for CIP-73-342.0, Rancho Peñasquitos Pump Station, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer, and authorizing the City Auditor and Comptroller to return excess budgeted funds to the appropriate reserve;

Authorizing the use of City Force Work in Water Fund 41500, CIP-73-342.0, for the construction of the Rancho Peñasquitos Pump Station, in an amount not to exceed \$250,000;

Declaring that this activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378(c). This activity is a subsequent discretionary approval covered under Rancho Peñasquitos Pump Station Replacement Project (Project No. 5315) Mitigated Negative Declaration. The activity is adequately addressed in the environmental documents and there is no change in circumstance, additional information, or project changes to warrant additional environmental review pursuant to CEQA Guidelines Section 15177.

NATURAL RESOURCE'S AND CULTURE COMMITTEE'S RECOMMENDATION:

On 1/9/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

Originally constructed in 1963, the existing pump station has a capacity of 25 million gallons per day (MGD) of water to serve the Rancho Bernardo, Del Mar and Rancho Peñasquitos communities. With continued growth and heavy demand, the pump station is near its service life and is scheduled to be replaced by a new 32 MGD pump station with an ultimate expansion to 50 MGD. The Rancho Peñasquitos Pump Station Design-Build Project will provide a new state-of-the-art pumping facility that will reduce maintenance, noise and energy costs and will improve reliability.

The California Department of Public Health mandated the replacement of the pump station under Compliance Order No. 04-14-96CO-022 (Amendment #11), Item 85 dated May 11, 2007. The new pump station will consist of a concrete masonry building that will protect the new pumps, pipes and motors from the outside elements. The building will be designed to blend with the surrounding community, and will feature drought resistant landscaping.

In July 2004, three (3) design-build teams were selected from a "Request for Qualifications" process to compete for this project. However, due to budget constraints, the project was placed on hold. Once funding became available, the project was authorized to continue with the "Request for Proposal" (RFP) process.

During the RFP process, one of the three design-build firms decided not to participate in the RFP process for the project due to schedule conflicts.

Throughout the RFP selection process, staff coordinated with the Equal Opportunity Contracting Program (EOCP) and the City Attorney's Office. A group of eight (8) professionals, including an individual from EOCP, were selected from various City Departments and an outside agency to review and evaluate both the technical proposal and the technical presentation by the design builders. Based on the selection criteria in the RFP, the \$10,686,000 proposal submitted by J.R. Filanc Construction Co. is recommended for award for this design-build project. An environmental Mitigated Negative Declaration Document (Project No. 53515) was prepared and approved on February 7, 2005.

City Forces will be utilized on this project to coordinate operational changes and shutdown of the pump station during construction. Their scope will include operating large diameter valves and assisting in pump station startup test. The cost for this work is estimated to be \$250,000.

EQUAL OPPORTUNITY CONTRACTING (EOC)

This Design-Build selection process required that the contractors provide the following information as part of their proposals: work force reports, subcontractor and sub consultant lists, contractors past participation levels for DBE/DVBE, a Community Outreach Plan, and an Equal Opportunity Plan for hiring both employees and subcontractors. J.R. Filanc Construction Co. provided all the above mentioned reports and plans. EOC was one of several graded criteria for the proposal evaluation process, and J.R. Filanc Construction Co. scored 8.1 out of a maximum of 10 points. Their proposal stated that a minimum of 15.73% of the overall contract will be subcontracted to DBE firms. The Equal Opportunity Outreach program administered by J.R. Filanc Construction Co. will be monitored and reported on by EOCP and E&CP. After completion of the design portion of the project, the trades/subcontractors not identified at the proposal date will be solicited through an extensive public outreach program including advertising in newspapers, trade papers, and minority focus papers, searching various public listings of DBE/DVBE subcontractors, and sending identified subcontractors personalized requests for proposals and an offer of assistance. Finally, the contractor will provide follow up phone calls to non-respondents.

FISCAL CONSIDERATIONS:

The total cost for the Rancho Peñasquitos Pump Station Design Build project is \$13,269,820, of which \$10,000 was previously authorized (Letter Agreement). This project will be phase funded in FY 2008 (\$3,522,033), FY 2009 (\$8,599,521), and FY 2010 (\$1,138,266). Water Department revenue is dedicated for this project. It is anticipated that 80% of the project costs will be reimbursed from an anticipated debt issuance in 2008. The Auditor's Certificate will be issued prior to contract award.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Committee on Natural Resources and Culture on January 9, 2008, consent motion by Councilmember Faulconer, second by Council President Peters. Approved by a vote of 4-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The City of San Diego Water Department presented the project to the Rancho Peñasquitos Planning Board (RPPB) and Rancho Peñasquitos Town Council (RPTC) in February of 2007. Community outreach included project notification to residents located near the pump station property. Moreover, a CIP hotline will be set up and maintained to answer any questions and provide any information to the public. Door hangers, fact sheets, newsletters and updates to the City of San Diego Web site will also be included in the plan for community outreach.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Customers located in the northern service area, RPPB, RPTC and J.R. Filanc Construction Co.

Oskoui/Jarrell

Aud. Cert. 2800498.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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

- * ITEM-101: Contract Change Order #1 for Rancho Bernardo Reservoir Rehabilitation.
(Rancho Bernardo Community Area. District 5.)

(See Engineering and Capital Projects Department's 12/7/2007, Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-607) ADOPTED AS RESOLUTION R-303379

Approving Change Order No. 1, dated January 15, 2008, issued in connection with the contract between The City of San Diego and Gateway Pacific Contractors, Inc., and the changes therein set forth, amounting to a net increase in the contract price of \$2,481,860;

Authorizing the expenditure of an amount not to exceed \$2,481,860, from Fund No. 41500, CIP-73-328.0, provided that the City Auditor and Comptroller first furnishes a certificate certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer, solely and exclusively for the purpose of funding this change order, and authorizing the City Auditor and Comptroller to return the excess budgeted funds to the appropriate reserve;

Declaring that the above activity is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15302.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 1/9/2008 NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

Rancho Bernardo Reservoir is located in the northern part of San Diego in the Rancho Bernardo Community. The original scope and funding for the design of this project was approved by Council on December 7, 2004 at a total design cost of \$390,000 and amended on November 26, 2007 for a total of \$580,348. It included the design for structural rehabilitation and seismic retrofit of the roof, columns, beams, corrosion protection and landscaping.

The project was advertised on January 10, 2007, with an engineering cost estimate of \$6.9 million and was awarded on June 14, 2007, to the lowest responsible bidder Gateway Pacific Contractors Inc., for \$ 4.1 million.

Since the Rancho Bernardo Reservoir Rehabilitation contract was awarded, the roof condition has deteriorated considerably from the condition reflected in the original bidding document. The recent deterioration of the roof slab has reached a point where it is unsafe for City personnel to maintain and for the hired contractor to start rehabilitation of the reservoir. Presently, City Operations personnel are monitoring the safety condition of the roof on a daily basis. The roof rehabilitation procedure planned in the original design is no longer the best approach because several of the pre-stressed strands across the joints are visibly corroded and/or broken. According to the structural engineer, the scope of work required needs to be changed from rehabilitation of the original roof to replacement with a brand new roof. This change will modify the original scope of work specified in the construction contract. Construction Change Order #1 will amend the original contract with Gateway Pacific Contractors Inc. for additional scope of work to build a new roof for an amount not to exceed \$2,481,860.

EQUAL OPPORTUNITY CONTRACTING:

The original contract was awarded under SCOPE with requirements that bidder provide documentation demonstrating a good faith effort to outreach to a broad-base of subcontractors, subcontracting at least 12% of the contract with advisory participation levels of 4% DBE and 1% DVBE, and score at least 80 out of 100 Outreach Indicator Points. The Equal Opportunity Program staff evaluated Gateway Pacific Contractor's documentation and reported that the contractor complied with the SCOPE requirements.

Gateway Pacific Contractor's documentation reflected 26.8% subcontracting, provided documentation sufficient to verify that the bidder made subcontracting opportunities available to a broad base of qualified subcontracts, and scored 100 out of 100 Outreach Indicator Points.

This change order will provide a new specialized aluminum roof for which only two vendors are known. Gateway Pacific Contractor requested proposals from both vendors, but only Temcor provided a proposal, for \$2,574,000. Additionally, the demolition of the existing pre-stressed concrete roof requires a specialized subcontractor. Harber Companies Inc. submitted a proposal for \$710,000 to do this demolition work. All the other subcontracting opportunities were provided to subcontractors listed under the original contract. Subcontracting for the new scope of work has increased to 63.01%.

FISCAL CONSIDERATIONS:

The total estimated cost of the Construction Change Order #1 with Gateway Pacific Contractors, Inc. for the replacement of the reservoir roof is \$2,481,860. Funding is available in Water Fund 41500, CIP-73-328.0 Rancho Bernardo Reservoir Rehabilitation for this purpose. No future funding anticipated.

PREVIOUS COUNCIL AND COMMITTEE ACTIONS:

The design consultant agreement with Psomas was presented and approved at the NR&C Meeting of November 17, 2004, and approved by the City Council on December 7, 2004, (R-299932). The Advertising for bids portion of the project was presented and approved at the NR&C Meeting on October 11, 2006, and approved by the City Council on December 6, 2006, (R-302124). The First Amendment to the Agreement with Psomas was approved on the Consent Agenda at the NR&C Meeting of September 26, 2007 and approved by the City Council on November 6, 2007 (R-303147). The Contract Change Order #1 was approved on the Consent Agenda at the NR&C Meeting of January 9, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Community meetings have been conducted to inform members of the public, including the Rancho Bernardo Town Council, the Rancho Bernardo Community Planning Board, the High Country West HOA, and local residents about the project and construction schedule. Further community outreach efforts are planned for the project and a CIP hotline is regularly maintained to answer any questions and provide information to the public. Door hangers, fact sheets, and updates to the City of San Diego Web site are also included in the plan for community outreach.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Key stakeholders are Gateway Pacific Contractors, Inc., who will receive payment for the Contract Change Order #1, water customers, and the Rancho Bernardo Community.

Oskoui/Jarrell

Aud. Cert. 2800530.

FILE LOCATION: CONT – GATEWAY PACIFIC CONTRACTORS, INC.

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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

- * ITEM-102: Lease Amendment to Extend Term of Existing Lease for Clairemont Community Service Center (CSC) and Police Storefront. (Clairemont Mesa Community Area District 6.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-405) ADOPTED AS RESOLUTION R-303380

Authorizing the Mayor to execute, for and on behalf of the City of San Diego, a Fourth Amended Lease Agreement with the State Teachers Retirement Board of Ohio for an additional three year extension.

STAFF SUPPORTING INFORMATION:

The Community Service Center Program and Police Department have maintained the Clairemont Community Service Center and Police Storefront at 4731 Clairemont Drive since 1997. The Clairemont Community Service Center and Police Storefront provides convenient access to the public, to City services, obtain City information, and report community issues and concerns. The location also contains a Community Meeting Room which is heavily used by numerous community groups. In addition, the Police Department provides a much needed visible presence in the Community, providing access to a Community Relations Officer and Volunteers in Policing who are able to address public safety concerns.

FISCAL CONSIDERATIONS:

This Amendment is for 5,000 square feet of office space and a Community Meeting Room. The space will rent for \$5,040 per month (\$1.44 per sq. ft., for 3,500 sq. ft. of office space, and no charge for Meeting Room) with an annual increase of four percent. The rent has been approved in the FY08 budget. Real Estate Assets Valuation Staff has reviewed the lease and found the rental rate to be in line with other comparable facilities.

FISCAL IMP ACT:

- \$35,884.80 (100 CSC)
- \$14,515.20 (100 Police)
- Total - \$50,400 for FY08 (10 months)

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: None.

Barwick/Rimes

Staff: Read C. Gillis - (619) 236-6986
Todd Bradley - Deputy City Attorney

FILE LOCATION: LEAS – STATE TEACHERS RETIREMENT
BOARD OF OHIO

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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

* ITEM-103: Renaming Police Neighborhoods within Police Beat Number 823.
(Mid City-Eastern Community Area. District 7.)

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-333) ADOPTED AS RESOLUTION R-303381

Declaring that Police Beat Number 823, which is bordered on the north by University Avenue, the west by 54th Street, the east by the City of La Mesa and on the south by Streamview Drive, College Avenue, and State Route 94 shall be renamed "Redwood Village/Rolando Park";

Declaring that the western side of Police Beat Number 823 shall be officially referred to as "Redwood Village";

Declaring that the eastern side of Police Beat Number 823 shall be officially referred to as "Rolando Park";

Declaring that all official references by City departments (including but not limited to Police, Fire, Redevelopment, and Planning) to the former neighborhood of Darnall shall be retired and replaced with the aforementioned names of Redwood Village and Rolando Park;

Declaring that all City standard community identifying signs shall be changed to reflect this action.

STAFF SUPPORTING INFORMATION:

The City of San Diego is made up of over 120 identified community neighborhoods. Each having a name that seeks to identify it through a historical or geographical moniker. The San Diego Police have sectioned the City into regular police beats that are numbered and generally use the neighborhood/community name.

In particular, Police Beat Number 823, named Darnell, is located in an area that encompasses two neighborhood communities. Beat number 823 is bordered on the north by University Avenue, the west by 54th Street, the east by the City of La Mesa and on the south by Streamview Drive, College Avenue, and State Route 94.

This action will rename Police Beat 823 Redwood Village / Rolando Park.

FISCAL CONSIDERATIONS:

Costs associated with this change are limited to four community sign changes.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The community decided with a 90% vote that the western side of Police Beat 823 would now be referred to as Redwood Village, based on an original sub-division name. The eastern side of the beat has been referred to as and signed as Rolando Park for some time.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Redwood Village Community Council.

Faucett

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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

* ITEM-104: Allocation of Funds to Red Cross and Retired Senior Volunteer Patrol Foundation (RSVP). (District 7.)

(See memoranda from Council President Pro Tem Madaffer dated 10/19/2007 and 11/20/2007.)

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Take the following actions:

ADOPTED AS RESOLUTION R-303382

Allocate \$30,000 to American Red Cross San Diego Imperial Counties Chapter for Ready When the Time Comes Program to purchase a disaster service vehicle; and allocate \$3,500 to Retired Senior Volunteer Patrol Foundation for purchase of equipment and supplies for use in support of the San Diego Police Department;

Directing the City Attorney to prepare the appropriate resolutions and/or ordinances in accordance with Charter Section 40.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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

ITEM-105: Sikes Adobe Sale Grant Deed to San Dieguito River Park Joint Powers Authority. (San Pasqual Community Area. District 5.)

(Continued from the meeting of January 8, 2008, Item 106, at the request of Councilmember Maienschein, for further review.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-461 Cor. Copy) ADOPTED AS RESOLUTION R0-303383

Authorizing the Mayor, or his designee, to execute a Grant Deed in Favor of the San Dieguito River Park Joint Powers Authority for the sale of the Sikes Adobe Property;

Authorizing the City Auditor and Comptroller to accept the fair market value compensation from the San Dieguito River Park Joint Powers Authority in the amount of \$170,000 for the subject 5.742-acre parcel, and deposit the funds into the Water Department Enterprise Fund 30246, Account 78335, "Sale of Land."

STAFF SUPPORTING INFORMATION:

The subject 5.742-acre Sikes Adobe property was acquired by the City of San Diego Water Department, in the early 1900's, for watershed purposes, as part of the Lake Hodges Dam Project. The property remained idle for many years, and was incorporated into the San Pasqual Valley Agricultural Preserve, established by Council Resolution in 1970. In 2003, the City granted a Permit to the San Dieguito River Park Joint Powers Authority (JPA) for access and use of approximately 1.90 acres of the subject site, which included the right to rehabilitate and restore the existing Sikes Adobe Farmstead structures, originally built on the property in the late 1800's.

Regrettably, the majority of the farmstead structures, recognized as a State Point of Historic Interest, and a City of San Diego Historic Site, were destroyed in the October 2007 wild fires. It is the intention of the JPA to reconstruct these structures, following the acquisition of the subject property from the City. It is to be noted that due to the fact that the farmstead structures were in dilapidated condition prior to the JPA's occupancy and commencement of their restorative efforts, the contributory value, if any, of the adobe farmstead structures was not considered in the fair market value conclusion of the 5.742-acre property. As such, the recent loss of the structures had no impact on the value of the subject property.

The conveyance of the subject property will not include water rights, as they will be retained by the City, through a deed restriction. Further, the property is to be preserved in accordance with the San Pasqual Valley Plan, adopted by the City Council on June 27, 1995, (Resolution No. R-286043). To this end, prior to any restoration work or other contemplated uses of the site by the JPA, including, but not limited to, an interpretive center, and/or JPA offices, an environmental document, prepared in compliance with CEQA, will be completed to address the potential impacts to the site. Development of the site, beyond the restoration of the farmstead structures, would require re-zoning, in that the subject property lies within the Agricultural Preserve. All proposed restorative work or other uses shall be presented to the City's Historical Resources Board for consideration and assistance in developing mitigation measures for inclusion in the CEQA document, to ensure the protection of the property's historic context.

FISCAL CONSIDERATIONS:

\$170,000 will be deposited into Water Department Fund 30246.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

February 17, 2005 - Rancho Bernardo Community Planning Board approved the lease and/or purchase of the site by the JPA, provided that the above-stated use provisions were instituted.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

City of San Diego Water Department.
San Dieguito River Park Joint Powers Authority.

Barwick/Anderson

Staff: Lane MacKenzie - (619) 236-6050
Todd Bradley - Deputy City Attorney

FILE LOCATION: F-10217

COUNCIL ACTION: (Time duration: 10:40 a.m. – 10:41 a.m.)

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

* ITEM-106: Grant Award for the Barrio Logan Sustainable Community Development Project.
(Barrio Logan Community Area. District 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-520) ADOPTED AS RESOLUTION R-303384

Authorizing the Mayor, or his designee, to make an application to the Sustainable Communities Grant and Loan Program (SCGL) administered by the State of California Pollution Control Financing Authority (CPCFA) for funding for the Barrio Logan Sustainable Community Development Project (Project);

Authorizing the Mayor, or his designee, to take all necessary actions to secure the CPCFA Grant funds for the Project;

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

Authorizing the City Auditor and Comptroller to establish a special interest-bearing account for the CPCFA Grant funds, upon receipt of fully executed Grant Agreements;

Declaring that this Project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility these activities will result in a direct or reasonably foreseeable indirect physical change in the environment.

STAFF SUPPORTING INFORMATION:

On July 10, 2007, the City Planning & Community Investment Department applied for funding from the Sustainable Communities Grant and Loan Program (SCGL) administered by the State of California Pollution Control Financing Authority (CPCFA), to assist in funding the Barrio Logan Community Plan Update. The SCGL Program funds transportation and land use planning projects that promote sustainable development growth policies, programs and projects. On October 31, 2007, the City was notified by the CPCFA that \$350,000 in grant funds were approved by the CPCFA board to be expended on the Barrio Logan Community Plan Update.

Tasks that are eligible for funding include hiring technical experts for the assessment and completion of specific plans, regulations, environmental impact reports and associated studies. Staff has prepared a revised timeline and budget that will be submitted as part of the documentation required by the CPCFA.

FISCAL CONSIDERATIONS:

No matching funds are required as part of this \$350,000 grant award. However, on April 10, 2007, the San Diego Redevelopment Agency authorized the expenditure of up to \$1,500,000 from the Horton Plaza Redevelopment Project budget for the Barrio Logan Plan update (AC 2700648/R-2007-91).

PREVIOUS AGENCY and/or COMMITTEE ACTION:

On July 16, 2007, the City Council approved Resolution R-302819 authorizing the submittal of the application to the CPCFA for a \$350,000 grant and \$150,000 loan under the SCGL Program.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS:

The City Planning & Community Investment Department (CPCI) established a Barrio Logan Community Plan Update Stakeholders Committee (BLSC) comprised of twenty five voting members and eight ex-officio non-voting members. The voting members are comprised of five residential tenants, three residential property owners, three non-resident property owners, four business owners, three industrial representatives/owners as well as seven non-profit/community organizations. The CPCI Department and the planning consultants will work closely with the BLSC and other interested members of the community to gather input throughout the planning process.

KEY STAKEHOLDERS and PROJECTED IMPACTS (if applicable):

As part of the plan update process, City staff will identify and work with key stakeholders throughout the process.

Wright/Anderson

Staff: Lara Gates - (619) 236-6006
Marianne Greene - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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

* ITEM-107: Fiscal Year 2008 Transportation Development Act and TransNet Bicycle and Pedestrian Projects.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-598 Cor. Copy) ADOPTED AS RESOLUTION R-303385

Authorizing the Mayor, or his designee, on behalf of the City to apply for Transportation Development Act (TDA), and TransNet Bikeway Fund, grants from SANDAG for bicycle/pedestrian improvement projects (Projects);

Authorizing the Mayor, or designee, to take all necessary actions to secure grant funds from SANDAG for the Project;

Amending Fiscal Year 2008 Capital Improvements Program Budget by adding CIP-58-207.0 - Bicycle Rings and Racks; CIP-58-206.0 - India Street Improvement Study; CIP-58-205.0 - Kearny Villa Road Bike Path Study;

Amending Fiscal Year 2008 Capital Improvements Program Budget by increasing Fund 390071, TDA, by an amount not to exceed \$550,000 for the following projects: CIP-58-153.0 - Bicycle Master Plan Update - \$150,000; CIP-58-207.0 - Bicycle Rings and Racks - \$50,000; CIP-58-206.0 - India Street Improvement Study - \$50,000; CIP-58-205.0 - Kearny Villa Road Bike Path Study - \$100,000; CIP-58-201.0 - Safety in Traffic Education Program (STEP) Phase 2 - \$200,000;

Authorizing the appropriation and expenditure of an amount not to exceed \$550,000 from TDA, Fund 390071 for the following: CIP-58-153.0 — Bicycle Master Plan Update – \$150,000; CIP-58-207.0 - Bicycle Rings and Racks - \$50,000; CIP 58-206.0 — India Street Improvement Study - \$50,000; CIP-58-205.0 - Kearny Villa Road Bike Path Study - \$100,000; CIP-58-201.0 - Safety in Traffic Education Program (STEP) Phase 2 - \$200,000, solely and exclusively for the purpose of providing funds for the Projects, contingent upon receipt of a fully executed grant agreement and upon the City Auditor and Comptroller first certifying that funds are on deposit with the City Treasurer;

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

Declaring that this activity is not a “project” and is therefore exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(2). Any construction activities related to this approval will be subject to environmental review.

STAFF SUPPORTING INFORMATION:

Each year, the SANDAG Board of Directors allocates funds under the Transportation Development Act (TDA) and the TransNet local sales tax program to support non-motorized transportation projects in the San Diego region. For Fiscal Year 2008, approximately \$2.0 - \$4 million will be available for allocation.

The City of San Diego submitted eight applications to SANDAG for consideration under this program. SANDAG's selection process was conducted by a panel of working group members from SANDAG. Of our eight submissions, five were selected by SANDAG for funding as follows:

The five projects selected by SANDAG for funding are:

- CIP-58-153.0 Bicycle Master Plan Update - \$150,000 (All Council Districts).
- CIP-58-169.0 Bicycle rings and racks - \$50,000 (All Council Districts).
- CIP-58-206.0 India Street Improvement Study - \$50,000 (Council District Two).
- CIP-58-205.0 Kearny Villa Road Bike Path Study - \$100,000 (Council District Six).
- CIP-58-201.0 Safety in Traffic Education Program (STEP) Phase 2- \$200,000 (All Council Districts).

The eight projects submitted originally are listed below:

- Bicycle Master Plan Update - \$150,000 (All Council Districts).
- Bicycle rings and racks - \$50,000 (All Council Districts).
- El Camino Real/SR-56 Bike Path connectors - \$245,000 (Council District One).
- 4th Avenue and Quince Street Pedestrian Safety Improvements - \$286,000 (Council District Two).
- India Street Improvement Study - \$50,000 (Council District Two).
- Kearny Villa Road Bike Path Study - \$100,000 (Council District Six).
- Safety in Traffic Education Program (STEP) Phase 2 - \$200,000 (All Council Districts).
- SR-56 Community Connectors - \$345,100 (Council District One).

New SANDAG guidelines for this funding cycle made the grant application process more competitive than in previous years. Staff submitted projects that had scored well in the previous cycle, which resulted in our success this cycle. The Bicycle Master Plan is due for updating, and will automatically be funded, as will the bike racks and rings and the educational program.

FISCAL CONSIDERATIONS:

This action accepts funding by SANDAG for five bicycle-pedestrian projects using Transportation Development Act Funds for \$550,000.

PREVIOUS COUNCIL COMMITTEE ACTION:

City Council has authorized application for and acceptance of TransNet and TDA funds for Bicycle and Pedestrian projects on an annual basis.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Groups supporting this action are: San Diego Police Department, San Diego Unified School District, San Diego County Bicycle Coalition, and Walk San Diego.

KEY STAKEHOLDERS: N/A.

Boekamp/Jarrell

Staff: Larry Van Wey - (619) 533-3005
Peter A. Mesich - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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

* ITEM-108: Settlement of Claims of Darren Royster, dba La Jolla Cove Property Management v. City of San Diego.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-561)

ADOPTED AS RESOLUTION R-303386

A Resolution approved by the City Council in Closed Session on Tuesday, July 17, 2007, by the following vote: Council President Peters-yea; Faulconer-yea; Atkins-yea; Council President Pro Tem Young-yea; Maienschein-not present; Frye-yea; Madaffer-yea; Hueso-not present.

Authorizing the Mayor, or his designee, to pay from the Water Liability Fund the additional amount of \$114,290.74 in the settlement of each and every claim of Claimant against the City, its agents and employees, arising from a series of water main breaks occurring prior to and on or about April 22, 2007 as set forth in prior Claims and Claim No. LP07 0705 1955;

Authorizing the City Auditor and Comptroller to appropriate and issue one check in the amount of \$114,290.74 payable to Claimant in full settlement of all claims pursuant to the Settlement Agreement entered into by and between the parties;

Declaring that said funds are to be payable from Water Liability Fund No. 41500;

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

SUPPORTING INFORMATION:

These claims arose from a series of water main breaks in the vicinity of 2915-2933 Boundary Street in the North Park area. Damage to real and personal property occurred at two rental properties owned by Darren Royster, dba La Jolla Cove Property Management, located at 2921 Boundary Street and 2931/2933 Boundary Street. At 2921 Boundary Street, in addition to some minor landscape damage, the water flowed under the structure and damaged carpet and walls in a lower level apartment/office used by Darren Royster. Next door, at 2931/2933 Boundary Street, the water flowed through an upstairs apartment occupied by several tenants.

Luth & Turley, the City's remediation contractor, was called in to clean up and assist the residents who were damaged by the water main break. The repairs to be completed by Luth & Turley will be billed and paid under the provisions of an Agreement for As-Needed Remediation and Cleanup Services (March 1, 2006 Resolution Number R-301243).

The City and the Claimant are in general agreement that damage to real and personal property occurred as a direct result of the series of water main breaks. To date, Risk Management has paid \$135,709.26 in repair, reimbursement and relocation expenses; however, the responsibility for the various causes of repair delay, the amount and nature of repairs and invoices for same remains in dispute.

Negotiations between the City Attorney, Risk Management and the Claimant have resulted in a proposed compromise settlement. This compromise settlement results in an additional payment to Claimant of \$114,290.74 along with the completion of real property repairs to be performed by Luth & Turley. Claimant has agreed to sign a release of all existing and/or potential claims in exchange for the total claim settlement amount of \$250,000.

FISCAL CONSIDERATIONS:

\$114,290.74 is available in Water Liability Fund No. 41500.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

In Closed Session on July 17, 2007, by motion of District 3 and second by District 7, the City Council, by the following vote: Yeas, Districts 1, 2, 3, 4, 6, 7; Nays, None; Not Present, Districts 5 and 8; authorized the amount of \$250,000 to pay ongoing expenses and resolve all claims of Darren Royster, dba La Jolla Cove Property Management against the City of San Diego.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Palmucci/Barrett

Aud. Cert. 2800517.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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

* ITEM-109: Modification of Appointment to the Taxi Cab Committee of the San Diego Metropolitan Transit System Board for Calendar Year 2008. (Citywide.)

(See memorandum from Mayor Sanders and Council President Peters dated 1/10/2008.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-583) ADOPTED AS RESOLUTION R-303387

Appointing Councilmember Brian Maienschein jointly by the Mayor and City Council, to replace Councilmember Tony Young as Council representative to the Taxi Cab Committee of the San Diego Metropolitan Transit System Board, for the period ending December 8, 2008.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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

- * ITEM-110: Amending the 2008 Legislative Calendar to Reschedule the Fire Prevention and Recovery Committee Meeting.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-610) ADOPTED AS RESOLUTION R-303388

Amending the schedule of meetings for the City Council and Standing Committees of the City Council for the period of January 1, 2008 through December 31, 2008, known as the 2008 Legislative Calendar, to reschedule the Monday, February 4, 2008 meeting of the Fire Prevention and Recovery Committee to Thursday, February 7, 2008, at 9:00 a.m., to avoid existing scheduling conflicts;

Directing the City Clerk to post and publish, as necessary, the notice of such meetings with their date, time, and location and to make necessary preparations and arrangements for such meetings.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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

* ITEM-111: Al Smithson Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-581) ADOPTED AS RESOLUTION R-303389

Commending Al Smithson, for the progress he has helped bring to fruition and for the imprint he has had on San Diego's LGBT community;

Proclaiming January 27, 2008, to be "Al Smithson Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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

* ITEM-112: Jennifer Jones Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-580) ADOPTED AS RESOLUTION R-303390

Recognizing and commending Jennifer Jones, for her contributions to the community;

Proclaiming January 15, 2008, to be “Jennifer Jones Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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

* ITEM-113: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (District 8.)

TODAY’S ACTION IS:

Adopt the following resolution:

(R-2008-575) ADOPTED AS RESOLUTION R-303391

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN’L - Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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

- * ITEM-114: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-540) ADOPTED AS RESOLUTION R-303392

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

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

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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

- * ITEM-115: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-365) ADOPTED AS RESOLUTION R-303393

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: GEN'L - State of Local Emergency Declaration Regarding
the Landslide on Mount Soledad

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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

* ITEM-116: Declaring a Continued State of Emergency Regarding the Wildfires.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-505) ADOPTED AS RESOLUTION R-303394

Declaring a continued state of emergency to exist in the City of San Diego due to the wildfires which began on October 21, 2007, pursuant to California Government Code Section 8630;

Declaring that the measures previously taken by the City Council in Resolution No. R-303098 shall continue to have full force and effect.

FILE LOCATION: GEN'L - State of Local Emergency Declaring a Continued
State of Emergency Regarding the Wildfires

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

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



ITEM-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) CONTINUED AS UNFINISHED BUSINESS 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 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) CONTINUED AS UNFINISHED BUSINESS 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 relating to the Chief Financial Officer, City Treasurer, Independent Budget Analyst, Audit Committee, and City Auditor and requiring a balanced budget.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:32 p.m. – 6:49 p.m.)

MOTION BY FRYE TO INTRODUCE, DISPENSE WITH THE READING, AND ADOPT THE ORDINANCE AS AMENDED IN SUBITEM A TO EXCLUDE THE PORTION REGARDING SECTION 39.1: AUDIT COMMITTEE, TO HAVE THE INTERNAL CITY AUDITOR BE APPOINTED BY THE AUDIT COMMITTEE AND CONFIRMED BY THE CITY COUNCIL. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-not present, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

Motion by Atkins to adopt the portion of Subitem A, Section 39.1: Audit Committee, to have the Internal City Auditor be appointed by the Audit Committee in consultation with the City Manager (Mayor) and confirmed by the City Council. Second by Peters. Failed.
1357-yea; 26-nay; 48-not present.

MOTION BY FRYE TO ADOPT THE RESOLUTION IN SUBITEM B AS AMENDED TO CONTINUE THE PORTION REGARDING THE IMPARTIAL ANALYSIS TO MONDAY, FEBRUARY 25, 2008, FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-not present, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

*Portions of Item 204 A-B are continued to Monday, February 25, 2008.

On February 4, 2008, Councilmember Frye suggested several revisions to the ordinance in Subitem A. These items were incorporated into the revised ordinance for discussion on February 5, 2008. At that meeting, all of the items relating to the ordinance were approved by Council by a 6-0 vote except for the item relating to the appointment process for the City Auditor in proposed Charter section 39.2. This remaining item failed to receive 5 affirmative votes and was continued as unfinished business. The ordinance and resolution are on the agenda as unfinished business. The remaining item for discussion and action on Subitem-A relates to the appointment of the City Auditor. The three options discussed at the meeting were: (1) appointed by the Audit Committee and confirmed by the Council; (2) appointed by the City Manager, in consultation with the Audit Committee, and confirmed by the Council; and (3) appointed by the Audit Committee, in consultation with the City Manager, and confirmed by the Council.

ITEM-330: Agreement with Actuarial Service Company, P.C. for Actuarial Services.

(See Independent Budget Analyst Report No. 08-8 and memorandum from Nader Tirandazi dated 1/22/2008.)

(Continued from the meeting of January 22, 2008, Item 333, at the request of Councilmember Madaffer, for further review.)

CITY ATTORNEY'S RECOMMENDATION:

Take the following actions:

ADOPTED WITH DIRECTION AS RESOLUTION AS R-303395

Approve the resolution to approve the Agreement between the City of San Diego and Actuarial Service Company, P.C. for actuarial services;

Authorize the City Auditor and Comptroller to transfer \$400,000 from the General Fund Appropriated Reserves Department 602, Fund 100 of which \$200,000 will be transferred to the Office of the City Attorney Department 045, Fund 100, for payment for actuarial consulting services and \$200,000 transferred to Citywide Program Expenditures Department 601, Fund 100 for future services from the consultant;

Authorize the expense from the Office of the City Attorney for services rendered in the amount of \$61,980.95 and an additional \$138,019.05 for anticipated payment for actuarial services totaling \$200,000;

Authorize the expense from Citywide Program Expenditures up to \$200,000 for anticipated payment for actuarial services;

Directing the City Attorney to prepare the appropriate resolutions and/or ordinances in accordance with Charter Section 40.

SUPPORTING INFORMATION:

The City desires to retain the Firm Actuarial Service Company, P.C. to provide actuarial consulting services with respect to issues pertinent to an evaluation of the actuarial soundness of the City's retirement system, and to conduct from time to time other actuarial analyses connected therewith (as further described in the scope of services, contained in Section 1 of the agreement).

FISCAL CONSIDERATIONS:

The City shall compensate Actuarial Service Company, P.C. based on its hourly rates for consulting services. This Agreement provides for such compensation to the consultant \$400,000 (which amount includes \$61,980.95 of work previously completed by the consultant). Authorize the City Auditor and Comptroller to appropriate \$400,000 from the appropriated reserve.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Council has previously approved an agreement with Actuarial Service Company, P.C.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Actuarial Service Company, P.C., all City Departments.

Blake/Goldstone

Aud. Cert. 2800474.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:40 a.m. – 12:08 p.m.)

MOTION BY ATKINS TO ADOPT THE STAFF'S RECOMMENDATION EXCLUDING THE CITY ATTORNEY'S CONTRACT WITH THE ADDITION THAT ON THE FIRST OF EACH MONTH A REPORT IS GIVEN TO CITY COUNCIL AND THE IBA. THE IBA SHALL PROVIDE CITY COUNCIL AN ANALYSIS ON THE REPORT.

AUTHORIZE A CONTRACT IN AN AMOUNT NOT TO EXCEED \$300,000 TO BE MANAGED BY THE MAYOR'S OFFICE SERVICES REQUESTED BY THE MAYOR AND/OR CITY COUNCIL. OF THE APPROXIMATE \$146,000 OWED

TO ACTUARIAL SERVICES, \$114,423.95 WILL BE PAID OUT OF THIS NEW CONTRACT.

AUTHORIZE THE CITY AUDITOR AND COMPTROLLER TO TRANSFER \$73,750 FROM THE CITYWIDE PROGRAM EXPENDITURE DEPARTMENT TO THE CITY ATTORNEY'S OFFICE AND TO CHARGE \$26,250 TO THE NON-GENERAL FUND DEPARTMENTS VIA THE FISCAL YEAR 2008 FTE COST ALLOCATION TABLE. IN ADDITION, OF THE \$300,000 AUTHORIZED TO BE EXPENDED FOR SERVICES REQUESTED BY THE MAYOR AND CITY COUNCIL, \$221,250 WILL COME FROM FUNDS ALREADY AVAILABLE IN CITYWIDE PROGRAM EXPENDITURE DEPARTMENT AND \$78,750 WILL BE CHARGED TO THE NON-GENERAL FUND DEPARTMENTS VIA THE FISCAL YEAR 2008 FULL TIME EQUALIVENT (FTE) COST ALLOCATION TABLE.

DIRECT THE CITY ATTORNEY TO PREPARE THE APPROPRIATE RESOLUTIONS AND/OR ORDINANCES IN ACCORDANCE WITH CHARTER SECTION 40.

DIRECT THE CITY ATTORNEY AND CHIEF OPERATING OFFICER TO PROVIDE WRITTEN MONTHLY REPORTS TO THE CITY COUNCIL THAT DESCRIBE THE SERVICES REQUESTED FROM ACTUARIAL SERVICES, THE AMOUNT OF THE CONTRACT SPENT TO DATE AND THE REMAINING OUTSTANDING BALANCE OF THE CONTRACT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-not present.

Motion by Atkins to adopt the recommendation regarding the City Attorney's contract. Failed. 2356-yea; 147-nay; 8-not present

ITEM-331: Retention of Outside Counsel Services for the Elimination of Presidential Leave Program Pension Benefits.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Take the following actions:

ADOPTED WITH DIRECTION AS RESOLUTION R-303396

Authorize the Mayor to negotiate an amendment to the current agreement with Foley and Lardner, outside legal counsel, for the sole purpose of reviewing and advising the Mayor and City Council on legal issues associated with the elimination of the Presidential Leave Program pension benefits in response to the IRS Voluntary Correction Program Compliance Statement;

Directing the City Attorney to prepare the appropriate resolutions and/or ordinances in accordance with Charter Section 40.

SUPPORTING INFORMATION:

The Internal Revenue Service has recently issued a Compliance Statement in response to the Voluntary Correction Program filings initiated by San Diego City Employee Retirement System (SDCERS). The IRS Compliance Statement describes changes which must be made to the City's Retirement Plan in order for the Plan to come into compliance with IRS codes and to maintain its qualified status under federal law. The Compliance Statement includes a determination that the Presidential Leave Program violates IRS requirements. The Compliance Statement requires that Presidential Leave Plan elements be retroactively removed from the plan document and specifies other corrective actions including the return of contributions and the reduction of benefits and service credits for Presidential Leave Program participants.

On January 8th, the City Council authorized retention of the law firm Foley and Lardner to advise the Mayor and City Council on the terms and conditions of the IRS Compliance Statement and to review the draft ordinance which would incorporate the Municipal Code changes necessary to bring the SDCERS Plan document into compliance. Today's action would authorize an amendment to the scope of work with the firm to include reviewing and advising the Mayor and Council on legal issues associated with the elimination of the Presidential Leave Program benefit.

FISCAL CONSIDERATIONS:

The initial \$50,000 authorization for Foley and Lardner, which was approved on January 8, may be sufficient to cover the costs for these additional legal services. If not, a future funding authorization action will be necessary.

Peters

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:23 a.m. – 11:35 a.m.)

MOTION BY MADAFFER TO ADOPT WITH THE DIRECTION TO AUTHORIZE THE MAYOR TO NEGOTIATE AN AMENDMENT TO THE CURRENT AGREEMENT WITH FOLEY AND LARDNER, OUTSIDE LEGAL COUNSEL, FOR THE SOLE PURPOSE OF REVIEWING AND ADVISING THE MAYOR AND CITY COUNCIL ON LEGAL ISSUES ASSOCIATED WITH THE ELIMINATION OF THE PRESIDENTIAL LEAVE PROGRAM PENSION BENEFITS IN RESPONSE TO THE IRS VOLUNTARY CORRECTION PROGRAM COMPLIANCE STATEMENT. DIRECT THE CITY ATTORNEY TO PREPARE THE APPROPRIATE RESOLUTIONS AND/OR ORDINANCES IN ACCORDANCE WITH CHARTER SECTION 40. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-332: **NOTE: This item was taken off the docket.**

ITEM-333: Seismic Retrofit of the North Harbor Drive Bridge Over Navy Estuary (Bridge No. 57C-015). (Midway Community Area. District 2.)

(See memorandum from Debra Fischle-Faulk, Tammy Rimes, and Patti Boekamp dated 1/28/2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-624) ADOPTED AS RESOLUTION R-303397

Authorizing the Mayor, or designee, for and on behalf of the City to make an application to Caltrans for Highway Bridge Program (HBP) funding, in the amount of \$188,000, Fund 38714 for the design of the Seismic Retrofit of the North Harbor Drive Bridge over Navy Estuary, CIP-53-038.1 (Project);

Authorizing the Mayor, or designee, to apply and take all necessary actions to secure funds from Caltrans in the amount of \$16,574,378, of which \$14,673,297 is from Highway Bridge Program, and \$1,901,081 is from State Transportation Improvements Program (STIP), for the construction, construction engineering, and contingency of the Seismic Retrofit of the North Harbor Drive Bridge over Navy Estuary, CIP-53-038.1;

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

Authorizing the City Auditor and Comptroller to establish two special interest-bearing funds for the Highway Bridge Program and State Transportation Improvements Program funds, contingent upon receipt of a fully executed grant agreement;

Amending the Fiscal Year 2008 Capital Improvements Program Budget by increasing CIP-53-038.1 by \$1,422,589, contingent upon receipt of a fully executed grant agreement;

Authorizing the de-appropriation of \$15,151,789 in Fund 38714, Highway Bridge Program in the Fiscal Year 2008 Capital Improvements Program Budget in CIP-53-038.1;

Approving the expenditure of \$16,762,378 from CIP-53-038.1, Seismic Retrofit of the North Harbor Drive Bridge over Navy Estuary, of which \$188,000 is from Fund 38714, HBP and \$14,673,297 is from Highway Bridge Program, and \$1,901,081 is from State Transportation Improvements Program, for the preparation of plans and specifications, construction, construction engineering and contingency, contingent upon the City Auditor and Comptroller certifying that funds are available;

Authorizing the plans and specifications for the construction of the Seismic Retrofit of the North Harbor Drive Bridge over Navy Estuary as advertised by Purchasing and Contracting Department;

Authorizing the Mayor or his designee, to execute a construction contract with the lowest responsible and reliable bidder contingent upon the City Auditor and Comptroller first furnishing a certificate certifying that funds necessary for the expenditure are, or will be, on deposit with the City Treasurer;

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

Declaring that this activity is covered under Project No. 98-0235, dated July 7, 2000, adopted by Resolution No. R-296944. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Therefore, this activity is not a separate project for purposes of California Environmental Quality Act (CEQA) review pursuant to State CEQA Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

The North Harbor Drive Bridge which spans the mouth of the former Naval Training Center Boat Channel was built in 1975 and has been identified by Caltrans as a seismically deficient bridge. This Seismic Retrofit project would bring the bridge to current design standards. The proposed project would stabilize the two parallel bridges with reinforcement and infilling of the bridge archways without changes to the bridge-platform or the height of the span.

The proposed project would require the driving of 180 new 24-inch piles and concrete support piers with expanded pier caps. Additional work would include replacement of deteriorating concrete and steel, expansion joints, shear keys, and restrainer units.

The Seismic Retrofit of the North Harbor Drive Bridge over Navy Estuary is eligible for Federal and State grant funding through the Highway Bridge Program (HBP). This action will allow the Mayor or his designee to accept Highway Bridge Program Funds of \$16,762,378. The construction cost is 88.53% Federally Funded and 11.47% State Funded.

FISCAL CONSIDERATIONS:

These actions will increase total project budget to \$19,329,332. Funding source authorized by Caltrans have been reallocated Federal Funds (HBP) have been decreased by \$478,492 and State Funds (STIP) have been increased by \$1,901,081, resulting in the increase of \$1,422,589 in the Fiscal Year 2008 Capital Improvement Program Budget.

These actions will authorize the appropriation and expenditure of \$16,762,378 in grant funding, of which \$231,312 will be for additional design services, \$131,616 for TY Lin International and \$99,696 for Merkel Associates, Inc. (Contract Amendments to be approved in a separate 1472), and \$16,531,066 for construction and construction support.

PREVIOUS COUNCIL COMMITTEE ACTION:

- April 28, 1997, Resolution No. R-288577, Accepting Program Supplement No. 11-5004.
- August 5, 2002, Resolution #R-296943, Accepting Modification to Program Supplement No. 11-5004.
- August 5, 2004, Resolution #R-29644, Certified the Mitigated Negative Declaration (MND) LDR File No. 98-0235 for the North Harbor Drive Bridge over Navy Estuary.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This project has coordinated with The Corky McMillin Companies, Naval Base Point Loma and Unified Port of San Diego.

KEY STAKEHOLDERS:

Federal Highway Administration (FHWA); California Department of Transportation (Caltrans);
The Corky McMillin Companies; and Unified Port of San Diego.

Boekamp/Jarrell

Staff: Marnell Gibson - (619) 533-5213
Michael Calabrese – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:35 a.m. – 11:36 a.m.)

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

ITEM-334: Third Amendment to the Agreement with IMS Recycling Services and Allan Company for Processing, Transporting, and Marketing Curbside Recyclables.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-443) ADOPTED AS RESOLUTION R-303398

Authorizing the Mayor, or his duly authorized representative, to execute, for and on behalf of the City, a third amendment to the agreement with IMS Recycling Services and Allan Company for processing, transporting, and marketing commingled curbside recyclables, under the terms and conditions set forth in the Third Amendment;

Authorizing and directing the City Auditor and Comptroller to deposit revenues received under this Third Amendment into Fund No. 41210-Recycling Fund;

Declaring that the above activity is not a project and therefore is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378(a).

STAFF SUPPORTING INFORMATION:

The Environmental Services Department (ESD) currently offers single stream automated collection of curbside recyclables to 296,000 City residences on a biweekly schedule. On October 19, 1998, upon completion of a competitive Request for Proposal (RFP) process, the City Council approved a contract which is a partnership between IMS Recycling Services and Allan Company (Contractors) for processing, transporting and marketing of the commingled curbside recyclables collected by City forces. The contract was amended in 2003 with a new six-year base term, which expires June 30, 2009, and includes two two-year extension options that can be exercised at the City's option.

In discussion with the Contractors regarding the extension options allowed within the existing contract, the Contractors submitted a contract amendment proposal for the City's consideration that would provide additional revenue.

The amendments are being recommended for the following reasons: the current optimal working relationship with the Contractors who are responsive to the City's needs, a low risk payment structure with guaranteed revenues to the City, a revenue structure which exceed the revenue generated by other cities in similar circumstances, dual facilities in the north and south/central parts of the City which allow for more efficient routing of City trucks, local technology which allows for optimal equipment operation and minimization of down time, and experience and favorable pricing from a recognized material marketing recycler, Allan Company.

ESD retained the services of Hilton, Farnkopf and Hobson (HF&H) to provide a best-in-class benchmark of the City's current contract agreement. HF&H compared the City's agreement with five other agreements that are currently fully operational. The cities that were compared were Phoenix, Arizona and the California cities of Burbank, Glendale, Los Angeles, and San Bernardino. When HF&H modeled the City's current agreement under the revenue structures of the other cities' agreements, they found that San Diego's Contractors had out-performed all other cities' contractors in similar circumstances operating similar programs. The City currently receives between 37.9% and 130% more revenue than the benchmarked cities. This analysis confirmed ESD's confidence in the Contractors' performance to date.

The proposed amended contract would further increase revenues by raising the base payment from \$ 12.50/ton to \$ 16.00/ton, retroactive to July 1, 2007, and would increase an additional \$0.25/ton in each subsequent year. This new revenue structure would increase the guaranteed annual revenue to the City from \$1.3 million, under the current agreement, to \$1.54 million in the first year of the proposed agreement and increase by approximately \$17,500 per year for the remainder of the six year agreement, resulting in a total increase in guaranteed revenue of \$1.47 million. This revenue is necessary for the continued financial viability of the Recycling Fund thereby helping to ensure the continued provision of curbside commodity collection and greenery collection programs to benefit San Diego Residents.

In addition to the base revenue and revenue sharing, the Contractors will deposit \$25,000 annually into the Recycling Fund for contamination reduction efforts. High contamination rates are undesirable and could put the curbside recycling program in jeopardy by causing the Contractors to have to secure a different type of operational permit from the California Integrated Waste Management Board.

In return for the negotiated increases in revenue to the City, the performance period would be modified to reflect a new six-year base term, July 1, 2007 to June 30, 2013. For consideration of the extension, the Contractors shall furnish the City \$600,000 upon execution of the agreement.

FISCAL CONSIDERATIONS:

Per Municipal Code Section 66.0135, revenues derived from the sale of recyclable commodities shall be paid into the Recycling Fund (41210). The revised agreement would provide the City's Recycling Fund a guaranteed price of \$22.00 for each ton of recyclable material delivered to the Contractors for the first year of the revised agreement, retroactive to July 1, 2007, and would increase the price by \$0.25 per ton each year for the remainder of the agreement. At current annual tonnages, the new revenue structure would increase guaranteed annual revenue to the City from \$1.3 million under the current agreement, to \$1.54 million in the first year (FY08) of the new agreement which will increase by approximately \$17,500 per year for the remainder of the agreement. This would result in a total increase in guaranteed revenue of \$1.47 million over the six year term of the proposed agreement. The agreement also provides the City with 50% of the revenues from the sales of recyclables in excess of the current revenue sharing threshold, and a \$25,000 annual payment for contamination reduction and education programs. In addition, the Contractors would provide a one time payment of \$600,000 for consideration of the terms of the extension.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

In January 1999, the City began converting Curbside Recycling Program from a manual three bin collection to bi-weekly, commingled, single cart automated collection system (RR-290385). At that time, Environmental Services had entered into the agreement with the Contractors (RR-290886) and, by November 2001, curbside recycling was expanded Citywide. In July of 2003, the agreement was modified to the existing terms (RR-298168).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

City of San Diego residents receiving curbside recycling collection.

Heap/Haas

Staff: Stephen Grealy - (858) 573-1275
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:36 a.m. – 11:38 a.m.)

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

ITEM-335: Fourth Extension to the Agreement with Allan Company to Operate the Miramar Recycling Center.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-441) ADOPTED AS RESOLUTION R-303399

Authorizing the Mayor, or his duly authorized representative, to execute, on behalf of the City, a further extension to the agreement with Allan Company to operate the Miramar Recycling Center, to take effect retroactively from January 1, 2007, under the terms and conditions set forth in the document entitled Fourth Extension to the Miramar Recycling Center Service Contract;

Authorizing and directing the City Auditor and Comptroller to deposit revenues received under the agreement, as amended, to Fund No. 41210-Recycling Fund;

Declaring that the above activity is not a project and therefore is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378(a).

STAFF SUPPORTING INFORMATION:

In 2001, the San Diego City Council authorized the City Manager to execute a new agreement with Allan Company (Contractor) for the operation of the Miramar Recycling Center (Center), located at the entrance of the City's Miramar Landfill (Resolution RR-295859). That agreement provided the City with increased revenue, services, and capital improvements, in exchange for a five-year contract that includes an "evergreen clause" which, beginning at the end of the second contract year, and at the end of each contract year thereafter, allows for a one-year extension of the agreement if mutually agreed upon by the parties and approved by Council.

The Fourth Extension has been delayed by ESD due to an interest to negotiate improved revenue to the City. As a result, the Fourth Extension includes the 4th one-year extension as well as an additional renegotiated two-year extension to the term of the agreement and an enhanced revenue stream to the City. If the City Council does not approve the extension to the agreement, the contract will terminate December 31, 2009.

Under the three-year evergreen contract the fourth extension will extend the term of the contract one year through December, 2012, and include an increase in rent and a share of the Recycling Center revenue. In addition, Contractor will provide a one-time payment of \$150,000 to include a provision to convert the evergreen contract extension to add two years to the existing term, with extensions occurring every other year. In accordance with this provision, the next extension will occur in 2010, to extend the agreement to 2014. It is estimated that the amendments included in the fourth extension will result in additional revenue of \$856,000 from FY08 to FY12, an increase of over 178 percent.

FISCAL CONSIDERATIONS:

The fourth extension provides for continued rent payment of \$8,000/month for annual revenue of \$96,000 through CY 2007, a rent increase to \$9,000/month, to commence on January 1, 2008, and to be subject to a CPI adjustment on January 1 of each contract year, to commence January 1, 2009. Annual rent revenue for CY 2008 will be \$108,000.

In addition, the extension provides for the City to receive one (1) percent of the Center's scrap sale revenue, retroactive to January 1, 2004. The estimated value of this provision from 2004 through 2007 is \$225,000. Assuming the scrap market continues at its current strength this provision could provide annual revenue of approximately \$100,000. Based upon the success of the Recycling Center and the increasing value of the materials being processed there, ESD staff proposed a revenue sharing provision with Allan Company. Due to the volatility of the markets for recycled materials, a profit sharing provision is preferred to a rent increase as it protects the contractor from a downturn in market values. By maintaining a monthly rental provision of \$9,000 plus CPI increase, the City is ensured to receive annual base revenue. In addition, Contractor will remit a one-time payment of \$150,000 within 30 days of final passage of Council's approval of the fourth extension in return for converting the evergreen extension provision from one to two years. Estimated revenue for FY 2008 is estimated at \$477,000.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Miramar Recycling Center provides a valuable, high-quality service to City residents and businesses by providing a one-stop recycling opportunity. In addition to paper, cardboard, beverage containers, scrap metal and other recyclable items, the Center also accepts cathode ray tube (CRT) devices such as computer monitors and TVs free of charge, and accepts for a small fee such hard to handle items as appliances and electronics. It also provides free tax paper shredding and recycling during April, cooking oil recycling, and the sale of bagged Miramar Greenery compost and Recycle Or Else items at no additional charge to the City.

Since the existing agreement was approved in 2001, the Contractor has spent over \$300,000 on site improvements and marketing. Through print media, television and radio advertising, the Contractor has increased usage 54 percent from FY 2001 to FY 2007, serving over 100,000 customers a year. The Miramar Recycling Center is featured on the ESD web page and promoted in our annually updated City of San Diego Recycling Guide.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

In 1999 the City issued a RFB for management of the Miramar Recycling Center. Only two eligible bids were received; one from Allan Company and one from Escondido Recycling. Escondido Recycling subsequently withdrew their bid, leaving only Allan Company as an eligible bidder with a monthly rent proposal of \$301. This agreement was replaced by the existing agreement.

Gonaver/Heap

Staff: Stephen Grealy - (858) 573-1275
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:38 a.m. – 11:39 a.m.)

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



ITEM-336: Valencia Business Park Rezone. Rezones a 4.33-acre vacant site located at 5515 Stevens Way. No development is proposed with this application. (Southeastern San Diego Community Plan Area. District 4.)

Matter of approving, conditionally approving, modifying, or denying a Rezone of a vacant parcel (described as Lots 2 through 7 of Valencia Business Park Map No. 14256) from I-1(Light Industrial) to CT-2 (Commercial Center). The 4.33-acre vacant site is located at 5515 Stevens Way, just north of Imperial Avenue in the Southeastern San Diego Planned District. No development is proposed with this application.

*** Unless otherwise noticed or stated on the record at the hearing, if an ordinance is approved and introduced by the City Council, it will automatically be scheduled for a hearing by the City Council for final passage at 10:00 a.m. on the Tuesday two weeks after the subject hearing.**

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2008-86) RETURNED TO THE MAYOR WITH DIRECTION

Introduction of an Ordinance of the Council of the City of San Diego changing 4.33 acres located at 5515 Stevens Way, north of the intersection of Imperial Avenue and Valencia Parkway, within the Southeastern San Diego Community Plan Area, in the City of San Diego, California, from the I-1 Zone of the Southeastern San Diego Planned District into the CT-2 Zone of the Southeastern San Diego Planned District, as defined by San Diego Municipal Code Section 103.1707; and repealing Ordinance No. O-16922 (New Series), adopted August 3, 1987, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

OTHER RECOMMENDATIONS:

Planning Commission on December 6, 2007, voted 4:0:3 to recommend approval.

Ayes: Griswold, Otsuji, Smiley, Schultz

Recusing: Naslund

Not present: Garcia, Ontai

The Encanto Neighborhood Community Planning Committee has recommended approval of the project by a vote of 5-4-0 with no conditions.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of the Valencia Business Park Rezone from the I-1 Zone to the CT-2 Zone of the Southeastern San Diego Planned District. The 4.33-acre site consists of six vacant lots located on Stevens Way within the Southeastern San Diego Community Plan area.

STAFF RECOMMENDATION:

APPROVE Rezone Ordinance No. O-464920.

EXECUTIVE SUMMARY:

The Southeastern San Diego Development Corporation (SEDC) proposes to rezone six lots (Lots 2 through 7 of Valencia Business Park Map No. 14256) from an industrial zone to a commercial zone. The property is within SEDC's Central Imperial Redevelopment Area. No development is proposed with this application. Development of the subject property will require future discretionary action. The subject property is a part of the "Potter Tract" development (Project No. 96-7729) approved by the Planning Commission in 2000 which permitted the subdivision of a 14.8-acre site into nine lots. Seven lots were proposed for industrial development (subject property), two as non-buildable lots (Lots A and B), and Lot 1 proposed for a United States Post Office. Lot 1 has been developed with the Earl B. Gilliam Post Office. Lots A and B are improved as landscaped open space lots. The subject property remains undeveloped. SEDC has indicated that, based on market considerations, a rezone from industrial to commercial would facilitate commercial opportunities in the Southeastern San Diego community.

FISCAL CONSIDERATIONS:

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

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On December 6, 2007, the Planning Commission voted 6:0:0 to recommend to the City Council approval of the project without any changes.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Encanto Neighborhoods Community Planning Group recommended approval of the project by a vote of 5-4-0 with no conditions.

KEY STAKEHOLDER:

Southeastern Economic Development Corporation

Anderson/Broughton/ST

LEGAL DESCRIPTION:

Project is located at 5515 Stevens Way in the I-1 Zone of the Southeastern San Diego Planned District within the Encanto Neighborhood of the Southeastern San Diego Community Plan, in the City of San Diego, County of San Diego, and State of California.

NOTE: The rezone is exempt from environmental review pursuant to the California Environmental Quality Act, Section 15060(c)(3). The activity is not a project as defined in Section 15378.

Staff: Sandra Teasley – (619) 446-5271
Marianne Greene – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:09 p.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR WITH DIRECTION TO PROVIDE COUNCIL WITH ALL INFORMATION RELATED TO THIS ITEM BEFORE COMING BACK TO COUNCIL. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.



ITEM-337: 2551 Worden Tentative Map, application for a Tentative Map to allow the conversion of 29 existing residential apartment units into condominiums on a 1.10-acre site located at 2551 Worden Street, in the RM-3-7, Airport Environs, Airport Approach and Coastal Height Limit Overlay Zones. (Peninsula Community Plan Area. District 2.)

Matter of approving, conditionally approving, modifying or denying an application for a Tentative Map to allow the conversion of 29 existing residential apartment units into condominiums, an Easement Abandonment to allow the vacation of unused on-site utility easements and a waiver of the requirement to underground the existing overhead utilities on a 1.10-acre site located at 2551 Worden Street, in the RM-3-7 Zone and the Airport Environs, Airport Approach and Coastal Height Limit Overlay Zones, within the Peninsula Community Plan area.

Should the condominium conversion project should 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.

(Tentative Map No. 265665/Easement Abandonment No. 499428/Project No. 84000.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-573) CONTINUED TO MONDAY, APRIL 21, 2008

Adoption of a Resolution adopting the findings with respect to Tentative Map No. 265665; supported by the minutes, maps and exhibits, all of which are incorporated by reference;

That pursuant to California Government Code section 66434(g), the following public service easements and street reservation, located within the project boundaries as shown in Tentative Map No. 265665, shall be vacated, contingent upon the recordation of the approved final map for the project;

That Tentative Map No. 265665/Easement Vacation No. 499428 is granted to Charles Warner, Applicant/Subdivider and Lintvedt, McColl & Associates Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

OTHER RECOMMENDATIONS:

Planning Commission on November 15, 2007, voted 7-0 to approve.

Ayes: Schultz, Garcia, Griswold, Ontai, Otsuji, Naslund, Smiley.

The Peninsula Community Planning Group has recommended denial of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of a Tentative Map to allow the conversion of 29 existing residential rental units into condominiums and an Easement Vacation to allow the vacation of several unused public service and street reservation easements at 2551 Worden Street in the Peninsula Community Plan area.

STAFF RECOMMENDATION:

1. **Approve** Tentative Map No. 265665; and
2. **Approve** Easement Vacation No. 499428; and
3. **Approve** the requested waiver of the requirement to underground the existing overhead utilities.

EXECUTIVE SUMMARY:

The following is a brief summary of the project background and issues. Please refer to the attached Report Planning Commission for more detailed information (Attachment 2). The existing two-story, 29-unit apartment building was constructed in 1970 and consists of 12 one-bedroom units and 17 two-bedroom units with 31 onsite parking spaces. A Tentative Map to allow the conversion of existing units to condominiums would typically require a Process Four, Planning Commission decision. However, this project includes a request to vacate several unused public service and street reservation easements, which elevates the project to a Process Five, City Council decision.

This project is subject to the condominium conversion regulations that became effective June 13, 2006, with the exception of the parking regulations, based on the City Council's specific adoption language for the "new" condominium conversion regulations. These regulations include additional landscape requirements, the preparation of a building conditions report, provision of onsite inclusionary housing, additional public noticing and parking. Based on the adopted language and project timing, all of these new regulations apply to this project, with the exception of the parking regulations.

City staff has reviewed and approved the Building Conditions Report and landscape plan for this project. As required by the current condominium conversion regulations, the project has been conditioned to set aside at least 10 percent of the units for households with an income level at or below 100 percent of the Average Median Income (AMI).

The requested Tentative Map would include the vacation of several unused public service and street reservation easements that are located within the project site. These easements include a 10-foot wide public utility easement located towards the front of the site along Worden Street, a 10-foot wide drainage easement located along the north side of the existing building and a 35-foot street reservation easement located at the northeastern corner of the property. City staff has reviewed the requested easement vacations and determined that the easements are not being utilized, are no longer required for their original intended use and staff is supportive of the requested vacations.

San Diego Municipal Code Section 144.0240 allows the subdivider to apply for a waiver from the requirement to underground the existing overhead utilities within the boundary of the subdivision or within the abutting public rights of way. City staff has determined the undergrounding waiver request qualifies under the guidelines of Council Policy 600-25, *Underground Conversion of Utility Lines at the Developer's Expense* and recommends approval of the requested waiver.

The project as proposed is in conformance with all applicable regulations. The Planning Commission voted unanimously to recommend approval of the project and City Staff also recommends approval of the project.

FISCAL CONSIDERATIONS:

All processing costs associated with this project are collected from a deposit account funded by the project applicant, Mr. Charles Warner.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On November 15, 2007, the Planning Commission voted 7-0, on consent, to recommend approval of the project as proposed to the City Council.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On November 17, 2005, the Peninsula Community Planning Committee voted 7-1-2 to recommend denial of the project. Concerns raised by Planning Group included the amount of parking provided, the age of the building and possible need for physical upgrades and that no affordable units were being provided onsite. No recommended project conditions were provided. The Peninsula Planning Group provided a letter to the Planning Commission reiterating their recommendation that the project not be approved (Attachment 5). As discussed in the staff report, the project complies with the applicable parking regulations. Also, because this project is subject to the new condominium conversion regulations, affordable housing must be provided onsite and the required repaired identified in the Building Conditions Report must be completed prior to Final Map approval.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Mr. Charles Worden, Property Owner; Lintvedt, McColl & Associates, Engineer

NOTE: This activity is exempt from CEQA pursuant to Section 15301(k) (existing facilities) of the State CEQA Guidelines.

Staff: Paul Godwin – (619) 446-5103
Andrea Dixon – Deputy City Attorney

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:09 p.m. – 2:10 p.m.)

MOTION BY FRYE TO CONTINUE TO MONDAY, APRIL 21, 2008, FOR FURTHER REVIEW. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-not present, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-not present.



ITEM-338: King/Chavez Middle School. Proposes construction of a two-story 18,497-square foot charter school building for 6th through 8th grades for a maximum 375 students. The 0.48-acre vacant site is located at the northwest intersection of 30th Street and Island Avenue. (Southeastern San Diego Community Plan Area. District 8.)

Matter of approving, conditionally approving, modifying, or denying a Public-Right-Of-Way Vacation, Planned Development Permit, Site Development Permit, Conditional Use Permit and a Variance, for the construction of a two-story 18,497-square-foot charter school building for grades 6th through 8th for a maximum of 375 students. The project includes a street vacation of a segment of Island Avenue, and deviations to certain development regulations including the following: Structures and parking spaces in the setbacks; overheight fencing and retaining walls; increased hardscape areas in the setbacks; increased floor area ratio and, to allow an elevator shaft to exceed the allowable building height. The 0.48-acre vacant site is located at the northwest intersection of 30th Street and Island Avenue.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2008-585) ADOPTED AS RESOLUTION R-303401

Adoption of a resolution certifying that Mitigated Negative Declaration No. 130159, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a public right-of-way vacation, planned development permit/site development permit/conditional use permit /variance for the King-Chavez Middle School project;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration incorporated by reference, is approved;

That pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, and incorporated herein by reference;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2008-586) ADOPTED AS RESOLUTION R-303402

Adoption of a Resolution certifying findings supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference, with respect to Planned Development Permit No. 448699/Site Development Permit No. 448682/Conditional Use Permit No. 448683/Variance No. 512752;

That Planned Development Permit No. 448699/Site Development Permit No. 448682/Conditional Use Permit No. 448683/Variance No. 512752 is granted to N & S Development, L.C., Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

Subitem-C: (R-2008-587) ADOPTED AS RESOLUTION R-303403

Adoption of a Resolution ordering vacated a public right-of-way within Island Avenue, in connection with Planned Development Permit No. 448699/Site Development Permit No. 448682/Conditional Use Permit No. 448683/Variance No. 512752, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20251-B, marked as Exhibit "B," and on file in the Office of the City Clerk;

That the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the Office of the County Recorder.

OTHER RECOMMENDATIONS:

Planning Commission on January 17, 2008, voted 6-0 to recommend approval.

Ayes: Otsuji, Garcia, Griswold, Smiley, Ontai, Naslund.

The Southeastern San Diego Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of the King/Chavez Middle School project, a proposed public charter school for grades 6th through 8th. The vacant site is located at the northwest intersection of Island Avenue and 30th Street, one block south of Market Street, in the MF-3000 zone of the Southeastern San Diego Planned District, in the Southeastern San Diego Community Planning area.

STAFF RECOMMENDATIONS:

CERTIFY Mitigated Negative Declaration LDR No. 130159 and **ADOPT** the Mitigation, Monitoring and Reporting Program; and

APPROVE Public Right-Of-Way Vacation No. 512753, Planned Development Permit No. 448699, Site Development Permit No. 448682, Conditional Use Permit No. 448683 and Variance No. 512752.

EXECUTIVE SUMMARY:

The King/Chavez Middle School project proposes the development of a two-story, 14,787-square-foot charter school for 375 students with a surface parking lot. The 0.48-acre corner lot is located at the intersection of Island Avenue and 30th Street. Hours of operation are Monday through Friday from 8:00 a.m. to 4:00 p.m. Charter schools are classified as public schools by the San Diego Unified School District, however, if proposed on private property, require conformance to all zoning regulations. The parking lot would be accessed from 30th Street. An outdoor lunch court is proposed around the southeast corner of the building. The building would contain three levels consisting of classrooms, computer labs, offices, and an exercise room. The project includes a Public-Right-Of-Way Vacation to vacate of an excess portion of Island Avenue. The project requires a Conditional Use Permit for the school use, a Site Development Permit for a Southeastern San Diego Planned District Permit, a Planned Development Permit for deviations to fencing, setback, hardscape and building height regulations, and, a Variance to allow an increase in floor area ratio.

The requested deviations to the development regulations are necessary due to site constraints including the following: The property is a remnant parcel of land surrounded by established subdivisions. It is located on the sloping portion of a public right-of-way. The development is an institutional use subject to low density, residential zone regulations. The deviations are minor in scope and will be mitigated through the use of additional site design features.

The deviations will facilitate the development of a public school with project amenities and providing additional educational opportunities for the children in the community. The project will provide several benefits to the City and the students in the area.

The school is proposed at this location to facilitate the matriculation of students at the nearby King/Chavez Academy of Excellence which houses kindergarten through 6th grades. The 6th grade level would be relocated to the new school. The project amenities include an auto court with enhanced paving in the parking lot area, use of additional landscape features within the right-of-way and adjacent to the retaining walls, accent colors and architectural reveals on the proposed retaining walls, as well as the construction of a 3'-0" high monument wall around the corner of the site to bear the profiles of Dr. Martin Luther King Jr. and Cesar Chavez.

FISCAL CONSIDERATIONS:

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

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Planning Commission will consider the item on January 17, 2008. The Planning Commission's recommendation will be read into the record at the February 5, 2008 City Council hearing.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

In September 2007, the Southeastern San Diego Planning Committee's Project Subcommittee recommended approval of the project and moved that the item be sent to the full committee, subject to a review of the environmental document. The environmental document was finalized on January 3, 2008. The project is scheduled for the next committee meeting on January 14, 2008. The community group's recommendation will be read into the record at the February 5, 2008 City Council hearing.

KEY STAKEHOLDER:
N & S Development, L.C.

Broughton/Anderson

Staff: Sandra Teasley – (619) 446-5271
Andrea Contreras Dixon – Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:16 p.m.)

Testimony in favor by Tim Wolf.

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



ITEM-339: Kensington Terrace, Project No. 105244, Appeal by Margaret B. McCann from the decision by the Planning Commission. (Mid-City Community Plan Areas. District 3.)

Matter of the appeal by Margaret B. McCann from decision of the Planning Commission certifying a Mitigated Negative Declaration, adopting a Mitigation Monitoring and Reporting Program and approving an application for a Planned Development Permit and Vesting Tentative Map to demolish the existing structures and construct a mixed-use development consisting of 16,255 square feet of office, 16,550 square feet of retail, and 19,614 square feet of residential (six, 3-bedroom Penthouse units and three, 3-bedroom Townhome units, totaling 9 for-sale units) on a 0.78 acre site. The property is located at 4142, 4166, and 4178 Adams Avenue and 4708 Edgeware Road in the CN-1-3 and CU-3-3 Zones of the Central Urbanized Planned District within the Kensington-Talmadge Neighborhood of the Mid-City Community Plan Areas and Council District 3.

(See Report to the City Council No. 08-003.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2008-676)

DENIED APPEAL AND UPHELD THE
PLANNING COMMISSION'S ACTION,
AS RESOLUTION R-303377

ADOPTED

Adopt a Resolution certifying that the information contained in Mitigated Negative Declaration No. 105244, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this City Council in connection with the approval of a Planned Development Permit and Vesting Tentative Map for the Kensington Terrace project;

Certifying that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study to a level below significance and incorporating by reference, Mitigated Negative Declaration, a copy of which is on file in the Office of the City Clerk and incorporated by reference;

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

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project;

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

Subitem-B: (R-2008-677) DENIED APPEAL AND GRANTED PLANNED DEVELOPMENT PERMIT, ADOPTED AS RESOLUTION R-303404

Adopt a Resolution granting or denying the appeal and granting or denying Planned Development Permit No. 360181, with appropriate findings to support Council action;

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

Subitem-C: (R-2008-678) DENIED APPEAL AND GRANTED VESTING TENTATIVE MAP, ADOPTED AS RESOLUTION R-303405

Adopt a Resolution granting or denying the appeal and granting or denying Vesting Tentative Map No. 360180, with appropriate findings to support Council action;

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

OTHER RECOMMENDATIONS:

Planning Commission on November 15, 2007, voted 5-1-1 to approve this project, was in opposition.

Ayes: Schultz, Ontai, Smiley, Naslund, and Griswold.
Nays: Garcia.
Not Present: Otsuji.

The Kensington Talmadge Community Planning Group has recommended approval of this project by a vote of 9-0-0, with no conditions.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Should the City Council deny the appeal and affirm the Planning Commission approval of a mixed-use development at 4142, 4166, and 4178 Adams Avenue and 4708 Edgeware Road within the Kensington-Talmadge Neighborhood of the Mid-City Communities Plan Area.

STAFF RECOMMENDATION:

Deny the appeal; **Certify** Mitigated Negative Declaration No. 105244; and **Approve** Planned Development Permit No. 360181 and Vesting Tentative Map No. 360180.

EXECUTIVE SUMMARY:

The project site is located at 4142, 4166, and 4178 Adams Avenue and 4708 Edgware Road within the Kensington-Talmadge Neighborhood of the Mid-City Communities Plan Area and the Central Urbanized Planned District, approximately 0.18 mile east of State Route (SR) 15. The 0.78-acre site is surrounded by Adams Avenue on the south, Marlborough Drive on the west, an alley to the north, and Edgware Road to the east. The project site has two zones. The western portion of the site (0.31 acres) is zoned CU-3-3 and the eastern portion of the site (0.47 acres) is zoned CN-1-3. The Mid-City Communities Plan designates the site for Commercial and Mixed-Use development at a maximum density of 29 dwelling units per acre, with a density bonus of up to 43 dwelling units per acres for mixed-use projects. Based on the existing land-use designation, approximately 23 dwelling units would be allowed on-site and ultimately 34 units would be allowed through the mixed-use density bonus. The project site has been previously graded and is developed with a gas station, convenience store, and four residential structures.

The project requires a Planned Development Permit and Vesting Tentative Map to demolish the existing development and construct a 56,643 square-foot, 3-story mixed-use development, consisting of approximately 16,550 square feet of retail space, 16,255 square feet of office space, and 19,614 square feet of residential space. The residential component would include six, three-bedroom, three-bath penthouse units and three, three-bedroom, three-bath townhome units. All nine units would be sold for private ownership at market rates.

The project incorporates a variety of various architectural features. These include features similar in design with historic craftsmen style, Spanish themed arches and a variety of materials reflecting the surrounding neighborhood. Two corner plazas of approximately 500 square feet each set the building back at the intersections to open up space and create public plazas. Each plaza features enhanced landscaping, seat walls and future outdoor seating areas relating to the retail uses adjacent to the plaza.

The project design incorporates a solar electricity generation system through the installation of photovoltaic solar panels sufficient to generate at least 50 percent of the on-site residential energy demand and 30 percent of the on-site commercial energy demand. In addition, approximately 10,000 square feet of the third floor is proposed as a “green roof.” The green roof would be planted with drought tolerant grasses, herbaceous and succulent plant species and reduce surface water run-off during storm events by capturing the water in the roof top soil and making it available to the plants.

A traffic study was conducted by LOS Engineering to evaluate potential project impacts on surrounding streets and intersections. The study determined that direct and cumulative impacts would occur in the near and long term on Adams Avenue and Marlborough Drive and at the intersection of Adams Avenue and Kensington Drive. As a result of these impacts, the project was conditioned to mitigate the traffic impacts resulting from implementation of the project. The mitigation measures are further discussed in the attached City Council Report.

On November 15, 2007 the Planning Commission heard a staff presentation and public testimony in favor and opposition during a noticed public hearing. After considering the information presented and associated discussion, the Planning Commission voted 5:1:0 to approve the project. On November 29, 2007 the project was appealed. The appeal issues and staff responses to the appeal issues are included as Attachment 4 to the City Council Report.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are recovered from a deposit account maintained by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None with this action.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On October 10, 2007, the Kensington-Talmadge Planning Committee voted 9-0-0 to approve the project as presented. On November 14, 2007 City staff participated in a community meeting held at a church in the community to answer community questions and provide information regarding the entitlement process. Attendance was estimated to be between 250 and 300 community residents. In opposition to the project is the Heart of Kensington, a local residents' group.

KEY STAKEHOLDERS:

Terrace Partners, L. P.

Broughton/Anderson/DS

LEGAL DESCRIPTION:

The project site is legally described as Lots 9, 10, 11, 12, and 13 in Block 15 of Kensington Park, in the City of San Diego, County of San Diego, State of California, According to Map No. 1245 filed in the Office of the County Recorder of San Diego County, April 8, 1910.

Staff: Dan Stricker – (619) 446-5251
Andrea Dixon – Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 6:24 p.m.)

Testimony in favor by Sandra Brower, Dave Potter, Ronald May, Margaret McCann, Karon Klipple, Kim Gregory, Gina Gianzero, Donald Rosencrantz, Bill Martin, Gail Greer, Robert Coffin, Kevin Kelly, Wayne Murphy, Celia Conover, Charles Craven, Frank Bottini, Tim Blood, Pam Hubble, and Mike Stauffer.

Testimony in opposition by Cindy Eldred, Allard Jansen, Mitchell Berner, Scott Moomjian, Marie Lia, Justin Rasas, Joe Carta, Sam Gillan, Erik Faucett, Gretchen Doerner, Roger Utt, Joan Fitzsomons, Rex Downing, Louis Misko, Kimball Vincent, Lin Martin, Brad Wiblin, and Kenneth Chappell.

MOTION BY ATKINS TO ADOPT THE RESOLUTION IN SUBITEM A TO DENY THE APPEAL AND UPHOLD THE DECISION OF THE PLANNING COMMISSION CERTIFYING MITIGATED NEGATIVE DECLARATION NO. 105244; ADOPT THE RESOLUTION IN SUBITEM B TO DENY THE APPEAL AND GRANT PLANNED DEVELOPMENT PERMIT NO. 360181; WITH THE FOLLOWING CONDITIONS: 1) NO HEAVY VEHICLES ON RESIDENTIAL STREETS NORTH OR SOUTH OF ADAMS AVE; 2) DEVELOPER SHALL WORK WITH CITY STAFF TO ENSURE APPROPRIATE SIGNAGE TO PREVENT HEAVY TRAFFIC ON ADJACENT RESIDENTIAL STREETS; 3) DESIGNATE THAT DELIVERY TRUCK ROUTES SHALL BE I-15 TO ADAMS AVENUE TO PREVENT HEAVY TRAFFIC ON ALDINE DRIVE; 4) NO DELIVERIES BETWEEN 7:00 A.M. TO 9:00 A.M. AND 3:30 P.M. TO 5:30 P.M.; 5) THERE SHALL BE NO COMMERCIAL CELL TOWERS OR ANTENNAS ON THE BUILDING; 6) ALL DUMPSTERS MUST BE CONCEALED IN DESIGNATED AREAS; 7) PARKING SHALL BE ESTABLISHED OFF-SITE FOR CONSTRUCTION EMPLOYEES; 8) HEAVY CONSTRUCTION EQUIPMENT SHALL USE ADAMS AND I-15; 9) DEVELOPER SHALL WORK WITH PLANNING COMMUNITY ON TIMES OF CONSTRUCTION OPERATION ON SATURDAY; 10) THE SIZE OF STREET TREES SHALL BE AS BIG AS POSSIBLE; 11) ANY GROCERY STORE USES ESTABLISHED SHALL NOT EXCEED 5,000 GROSS SQUARE FEET; 12) THE USES ALLOWED SHALL BE THOSE ALLOWED IN THE CN-1-3 ZONE OF THE CENTRAL URBANIZED PLANNED DISTRICT; 13) THERE SHALL BE NO "BIG BOX" RETAIL BUSINESSES, ADULT-CONTENT RETAIL STORES, DRIVE-THROUGH RESTAURANTS, PAWNSHOPS, BAIL BONDSMEN, AND LEASE SPACE DEDICATED TO MONEY SERVICE BUSINESSES; AND TO ADOPT THE RESOLUTION IN SUBITEM C TO DENY THE APPEAL AND GRANT VESTING TENTATIVE MAP NO. 360180. Second by Young. Passed by the following

vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-nay, Frye-nay, Madaffer-yea, Hueso-not present.

REPORT OUT OF CLOSED SESSION:

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

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

FILE LOCATION: MINUTES

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

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 6:49 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 6:49 p.m. – 6:49 p.m.)