

THE CITY OF SAN DIEGO, CALIFORNIA  
 MINUTES FOR REGULAR COUNCIL MEETING  
 OF  
 MONDAY, MARCH 24, 2008  
 AT 2:00 P.M.  
 IN THE COUNCIL CHAMBERS - 12TH FLOOR

Table of Contents

CHRONOLOGY OF THE MEETING..... 2

ATTENDANCE DURING THE MEETING ..... 2

ITEM-1: ROLL CALL..... 3

ITEM-10: INVOCATION ..... 3

ITEM-20: PLEDGE OF ALLEGIANCE..... 3

CLOSED SESSION ITEMS..... 4

ITEM-200: Awarding Contract for Furnishing Office Supplies to All Departments in the City of San Diego ..... 7

ITEM-201: Settlement of Litigation Entitled Beacon Electric Supply v. Saturn Electric Inc. 10

ITEM-202: Rooming House Ordinance, proposed amendments to the Land Development Code and the Local Coastal Program to prohibit the commercial use of single dwelling units in single residential unit zones ..... 12

ITEM-S400: Extension of Agreement with Mercer Consulting for Additional Services Related to the Proposed Pension Plan..... 16

ITEM-S401: First Amendment to the Agreement with Liebert Cassidy Whitmore for Professional Consultant Services..... 18

ITEM-250: **Notice** of Pending Final Map Approval – 4878 Cape May Avenue..... 21

REPORT OUT OF CLOSED SESSION ..... 21

NON-DOCKET ITEMS ..... 22

ADJOURNMENT..... 22

**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Council President Pro Tem Madaffer at 2:05 p.m. Council President Pro Tem Madaffer recessed the meeting at 2:55 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:00 p.m. with all Council Members present. Council President Peters recessed the meeting at 5:01 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 5:06 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 5:36 p.m.

**ATTENDANCE DURING THE MEETING:**

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

FILE LOCATION:            MINUTES



ITEM-1: ROLL CALL

Clerk Maland called the roll:

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

FILE LOCATION: MINUTES



ITEM-10: INVOCATION

Invocation was given by Ray Regno of Horizon Christian Fellowship.

FILE LOCATION: MINUTES



ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Atkins.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(a):

**CS-1** *City of San Diego v. Tracy Means, et al.*  
San Diego Superior Court Case No. GIC 858344 (on appeal)

Tracy Means v. The City of San Diego  
Case No.: GIC 864419 (the City prevailed)

Tracy Means v. City of San Diego  
A municipal corporation and a Political Subdivision of the State of California 37-  
2007-00083609-CU-MC-CTL

**REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 25, 2008**

DCA Assigned: J. Cordileone

This matter involves the above related lawsuits involving Tracy Means and her request to enter into settlement negotiations.

Closed Session Comment 1:

Paula Rosenstein commented on the status of the litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:18 p.m.)

**Council President Peters closed the hearing.**

**CS-2** *In The Matter of: Natural Gas Anti-Trust Cases I, II, III, & IV*  
*Re: All Price Indexing Cases,*  
San Diego Superior Court JCCP Nos. 4221, 4224, 4226, and 4228

**REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 25, 2008**

DCA Assigned: F. Ortlieb

This matter involves a pending consolidated action lawsuit against retail sellers of natural gas for anti-competitive acts and unfair business practices in 2000 and 2001. In Closed Session, the City Attorney will discuss a recommended settlement proposed with Defendant Duke Energy.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:18 p.m.)

**Council President Peters closed the hearing.**

**CS-3 *Citizens for Responsible Equitable Environmental Development v. City of San Diego*  
San Diego Superior Court Case No. GIC 871259;**

***Citizens for Responsible Equitable Environmental Development, et al. v. City of San Diego*  
San Diego Superior Court Case No. GIC 876017**

**REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 25, 2008**

DCA Assigned: M. Dickenson

These matters involve California Environmental Quality Act challenges to the City Council's approvals of condominium conversions. The City Attorney will update the Mayor and the City Council on the status of litigation in Closed Session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:18 p.m.)

**Council President Peters closed the hearing.**

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

**CS-4 Number of potential cases: One (North Park Theatre Project)**

**REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 25, 2008**

CDCA Assigned: H. Carlyle

In Closed Session, the City Attorney will advise the City Council on potential litigation and possible resolutions of the matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:18 p.m.)

**Council President Peters closed the hearing.**

**Conference with Legal Counsel - anticipated litigation – initiation of litigation, pursuant to California Government Code Section 54956.9(c):**

**CS-5 Number of Cases: One**

**REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 25, 2008**

DCA Assigned: J. Serrano

Consideration of litigation against the San Diego Regional Airport Authority regarding its anticipated Final Environmental Impact Report on its master plan for expansion.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:18 p.m.)

**Council President Peters closed the hearing.**

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

**CS-6 Voluntary Compliance Program Filing**

**REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 25, 2008**

In Closed Session, the Mayor requests that Outside Counsel provide a Status Report on Labor Issues related to Pension System Changes included in the Voluntary Compliance Program Filing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:18 p.m.)

**Council President Peters closed the hearing.**



ITEM-200: Awarding Contract for Furnishing Office Supplies to All Departments in the City of San Diego.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-730) CONTINUED TO TUESDAY, APRIL 1, 2008

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with Staples Business Advantage to furnish office supplies on as-needed basis, and under the terms and conditions set forth in the Memorandum of Understanding;

Authorizing the expenditure of an amount not to exceed \$955,000 for Fiscal Year 2008, to provide funds for the above Memorandum of Understanding, provided that the City Auditor and Comptroller furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Declaring that the above activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(3) because the purchase is a continuing administrative or maintenance activity, and therefore not a project pursuant to Guidelines Section 15378(b)(2).

**STAFF SUPPORTING INFORMATION:**

As part of Purchasing & Contracting's strategic sourcing initiative, the four major office supply companies, Corporate Express, Office Depot, Office Max, and Staples, were contacted to provide proposals for supplying Office Supplies to the City. To be considered, the companies must have a Public Agency Agreement, environmentally friendly products and an established "Green" program, Desk Top Delivery (also known as Just-In-Time delivery), and on-line ordering and training. The proposal from Staples provides the best value for the City.

A yearly savings of \$179,000 over the City's previous Office Supplies contract, Bid No. 5217-02-A, is anticipated with Staples. The Staples On-Line ordering system and training program will be tailored to meet City requirements and will provide a seamless transition from the incumbent supplier's system to Staples' ordering system. Staples offers an additional price discount if the City spends more than targeted amounts in one contract year.

Staples is committed to being an industry leader in preserving our environment and offers over two thousand (2,000) products made with post-consumer recycled content. They support the City's environmental recycling and waste reduction programs and actively encourage recycling. City employees can bring their pagers, inkjet and toner cartridges, Personal Digital Assistants (PDA), and rechargeable batteries to Staples stores to be recycled.

**EQUAL OPPORTUNITY PARTICIPATION AND OUTREACH:**

This Contract falls within the requirements for the procurement of commodities and services. A Workforce plan was required and provided. Staples, Inc. has an established supplier diversity mentorship program that enlists assistance from MWBE's and regional Minority Councils. Their program strives to enhance diversity in their service suppliers and add value - not cost to the customer. In addition, the Equal Opportunity Contracting team will work with Purchasing & Contracting to establish ways to include small and disadvantaged businesses in these types of procurements as office supplies which has historically been a commodity where there are ready, willing and able small and disadvantaged businesses available.

**FISCAL CONSIDERATIONS:**

Authorize the estimated expenditure of \$955,000, including tax, for Fiscal Year 2008, and an annual estimated yearly cost amount of \$1,910,000 for each Option Year one through four (1-4), from Fund No. 50010, Department No. 810, Organization No. 5099, Object Account No. 3231 and Job Order No. 009001 for City Departments to purchase items on an as-needed basis, pending availability of funds, including tax and payment terms of Net 30 Days. Price escalation will not exceed 10% of the prices in effect at the end of each prior Contract year.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

City Council Resolution Number R-296368, adopted on April 22, 2002, approved the award of Bid No. 5217-02-A to contract, by the City's participation in the County of San Diego's Just-In-Time Office Supply Contract, with Corporate Express. The term of the contract was for an initial one (1) year period, with options to renew for four additional years.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Four potential suppliers were contacted. The bid was a strategic sourcing initiative utilizing Public Agency Agreements and, therefore, was not advertised publically or posted on the City's official web site.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

All City Departments, citizens of the City of San Diego, and Staples are key stakeholders. The projected impact is the anticipated significant reduction of City expenses for office supplies.

KNOWN OPPOSITION IDENTIFIED:

Corporate Express submitted written opposition to the award process. Purchasing & Contracting's response, letter dated February 7, 2008, is enclosed. A memo provided to City Council by Corporate Express on March 4, 2008, is also enclosed. The Corporate Express memo contains errors. The Pricing Analysis is 56% of spend, not 36%. The NJPA program was not customized.

Rimes/Goldstone

Aud. Cert. 2800575.

Staff: Tammy Rimes - (619) 236-5921  
Sanna R. Singer - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:18 p.m. – 2:52 p.m.)

MOTION BY FRYE TO CONTINUE TO TUESDAY, APRIL 1, 2008, FOR FURTHER REVIEW. Second by Faulconer. Passed by the following vote: Peters-recused, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-yea.



ITEM-201: Settlement of Litigation Entitled Beacon Electric Supply v. Saturn Electric Inc.

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-513)            REFERRED TO CLOSED SESSION

Approving by the City Council in Closed Session on Tuesday, September 18, 2007, by the following vote: Council President Peters-yea; Faulconer-yea; Atkins-yea; Council President pro Tem Young-yea; Councilmember Maienschein-nay; Frye-yea; Councilmember Madaffer-yea; Hueso-yea. Councilmember Maienschein-absent.

Authorizing the Mayor, or his designee, to release the amount of \$1,618,143.25 in funds earned by Orion Construction but retained by the City, and to pay an additional amount of \$900,000 in the settlement of each and every claim of Orion Construction against the City, its agents and employees, arising from the Rehabilitation of Pump Stations 77A and 77B Project as set forth in San Diego Superior Court Case No. GIC 849095, Beacon Electric Supply v. Saturn Electric, Inc., et al;

Authorizing the City Auditor and Comptroller to appropriate and issue one check in the amount of \$900,000 payable to Orion Construction in full settlement of all claims arising from the Rehabilitation of Pump Stations 77A and 77B Project;

Declaring that said funds are to be payable from Sewer Fund No. 41506.

**SUPPORTING INFORMATION:**

This litigation arises from delays associated with the project known as the Rehabilitation of Pump Stations 77A & 77B. Sewer pump stations 77A and 77B are the sewer pump stations that convey wastewater from the Rancho Bernardo area of San Diego to the City of Escondido's treatment facility.

Various issues arose during construction that led to significant delays in the completion of the project. The project was essentially completed in July 2006 and the pumps have been operating for nearly two years.

After preparation and analysis of an as-built critical path schedule for the project, the City determined that Orion was entitled to an extension of contract time of 421 days due to events beyond its control. The City also determined that Orion and/or its subcontractors were responsible for 241 days of delay, for which liquidated damages have been assessed in the amount of \$361,500.

This settlement results in a net payment to Orion of \$2,518,143.25, which reflects additional costs incurred by Orion less the liquidated damages assessed by the City. Payment will be made to Orion by releasing the contract balance earned by Orion but being held by the City in the amount of \$1,618,143.25, plus an additional payment of \$900,000 above the current contract price. Both parties agreed to sign a release of all claims and Orion agreed it would defend and indemnify the City for any claims by its subcontractors.

FISCAL CONSIDERATIONS:

\$900,000 is available in Sewer Fund No. 41506.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This settlement and payment was considered by the City Council in Closed Session on September 18, 2007. On motion of District 7 and second by District 1, the City Council, by the following vote: Yeas, Districts 1, 2, 3, 4, 6, 7, and 8; Nays, District 5; Not Present, None; approved the settlement of all claims of Orion Construction Company against the City in Beacon Electric Supply v. Saturn Electric, Inc., et al, San Diego Superior Court Case No. GIC 849095, for release of the contract balance of \$1,618,143.25 to Orion and the payment of an additional \$900,000.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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

Zeleny

**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: 3:00 p.m. – 3:28 p.m.)

MOTION BY MADAFFER TO REJECT STAFF'S RECOMMENDATION AND REFER TO CLOSED SESSION. Second by Maienschein. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-202: Rooming House Ordinance, proposed amendments to the Land Development Code and the Local Coastal Program to prohibit the commercial use of single dwelling units in single residential unit zones. (Citywide.)

*Rooming House Ordinance*

The City Council will either adopt, modify, or not adopt amendments to the Land Development Code (Chapter 11, Article 3; Chapter 13, Article 1; Chapter 14, Article 2) and the Local Coastal Program.

The purpose of the rooming house ordinance is to address the chronic and growing commercial overuse of dwelling units especially in residential-single unit zones. The ordinance would create a new rooming house zoning use subcategory. The ordinance would define a rooming house as a dwelling unit where three or more rooms are rented individually or separately, to tenants under separate rental agreements. Rooming houses would not be permitted in RS, RM-1, or RM-2 zones but would be permitted (by right) in RM-3 and RM-4 zones, and in most commercial zones. A phase out period would allow existing rooming houses in RS, RM-1, and RM-2 zones to continue to operate as a previously conforming use for three years following adoption of the ordinance. The ordinance would apply a basic off-street parking space ratio of 1 space per tenant except under certain situations where the ratio decreases fractionally.

On September 6, 2007, the Planning Commission reviewed the rooming house ordinance and voted 6-0-0 to recommend adoption of the ordinance with the following changes: 1) a phase-out period of 3 years (instead of 7 years) for existing rooming houses; 2) an elevated review process for Neighborhood Use Permits needed to expand existing rooming houses; and, 3) application of the ordinance to rooming houses where fewer than three rooms and three separate rental agreements still results in multiple, independent living units.

\* 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.

The proposed Rooming House Ordinance would apply to the Coastal Zone, therefore the City Council's decision requires amending the City's Local Coastal Program. As a result, the final decision on the amendments to the Land Development Code and associated Local Coastal Program amendments will be with the California Coastal Commission. The City of San Diego must submit the amendments to the Land Development Code as an amendment for certification to the Coastal Commission. The ordinance will not be effective in the Coastal Zone until the Coastal Commission unconditionally certifies the amendment.

(See Report to Planning Commission PC 07-150/Project No. 137077.)

(Continued from the meeting of 11/19/2007, Item 201 at the request of Councilmember Madaffer, direction to re-introduce Ordinance with changes by City Attorney and Development Services.)

**NOTE:** Hearing open. Testimony taken on 11/19/2007.

**CITY ATTORNEY'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2008-61)                   INTRODUCED, TO BE ADOPTED TUESDAY,  
APRIL 15, 2008

Introduction of an Ordinance of the Council of the City of San Diego amending Chapter 11, Article 3, Division 1, by amending Section 113.0103; by amending Chapter 13, Article 1, Division 1, by amending Section 131.0112; Division 2, by amending Section 131.0222; Division 3, by amending Section 131.0322; Division 4, by amending Sections 131.0422 and 131.0423; Division 5, by amending Section 131.0522; Division 6, by amending Section 131.0622; and, by amending Chapter 14, Article 2, Division 5, by amending Section 142.0525.

**OTHER RECOMMENDATIONS:**

Planning Commission on September 6, 2007, voted 6-0-1 to recommend approval, with three modifications.

- Ayes: Garcia, Griswold, Otsuji, Naslund, Smiley, Schultz.
- Nays: None.
- Not present: Ontai.

Planning Groups:

- Community Planners Committee 26-4-1. On November 27, 2007, based on the ordinance presented to Council on November 19, 2007 (0-2008-61)(10/26/07) the Community Planning Committee voted 26-4-1 in favor of the ordinance.
- 21 Community Planning Groups have (or will have) heard and considered the rooming house ordinance by March 24, 2008. In sum, at least, 8 groups have voted in favor of the ordinance; 1 opposed, and 10 have heard the ordinance as an informational item. Two more groups are scheduled between the release of this document and the March 24, 2008 hearing to consider the ordinance.

**SUPPORTING INFORMATION:**

REQUESTED ACTION: Adopt the Rooming House Ordinance

CITY ATTORNEY RECOMMENDATION: Adopt the Rooming House Ordinance.

**EXECUTIVE SUMMARY:**

The ordinance will address the chronic and growing problem of commercial overuse of dwelling units in RS unit zones, and consistent with the purposes of these zones, it will protect the neighborhood quality of life, and will minimize adverse impacts between adjacent properties. The ordinance would amend both the Land Development Code and the Local Coastal Program and would apply citywide. Specifically, the ordinance would do the following:

- Define the following term *rooming house* as a dwelling unit where three or more rooms are rented individually or separately, to tenants under separate rental agreements. (Ch. 11, Art. 3)
- Exclude rooming houses from RS, RM-1, and RM-2 unit zones; allow them as a permitted use (by right) in RM-3 and RM-4 unit zones, and in most commercial zones where mixed-use is appropriate. (Ch. 13, Art. 1)
- Establish a three-year phase out period for existing rooming houses, based upon factors that balance the public interest against the private harm. (Ch 13, Art. 1)
- Apply a basic off-street parking space ratio of 1 space per tenant except under certain situations where the ratio decreases fractionally. (Ch. 14, Art. 2)

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

- On July 9, 2007, the City Attorney presented a draft rooming house ordinance to City Council as an informational item. Extensive public testimony uniformly supported adoption of a rooming house ordinance, and City Council unanimously passed a motion supporting the return of a rooming house ordinance by early Fall, including consideration by Planning Commission, and targeted community planning groups.
- On September 6, 2007, Planning Commission voted unanimously to recommend adoption of a rooming house ordinance with the following changes:
  - 1) a phase-out period of 3 years (instead of 7 years) for existing rooming houses;
  - 2) an elevated review process for Neighborhood Use Permits to expand existing rooming houses; and,
  - 3) application of the ordinance to rooming houses where fewer than three rooms and three separate rental agreements still results in multiple, independent living units.
- On November 19, 2007, City Council voted 6-2 to have the ordinance specifically revised, and to address outstanding concerns of Development Services Department.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The City Attorney has presented the ordinance to 21 Community Planning Groups and to the Community Planners Committee. The ordinance has been posted on the City Attorney website since before the City Council meeting of July 9, 2007. In addition, there have been numerous hearings and public forums on the issue since September 19, 2006, as described above in the section on previous legislative action.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Rooming house tenants will have three years to seek replacement housing whether in RM-3 and RM-4 unit zoned areas, or commercial zones, where dwelling units exist with similar densities and characteristics as rooming houses, or in other residential zones, in alternative living arrangements, where tenants have common access and financial responsibility for use of the dwelling unit as a whole. The ordinance will not cause the loss of dwelling units or rental units because it regulates the commercial structuring of rentals in selected zones; it does not restrict whether a dwelling unit may be rented, or the number of tenants in each rental. In RS zones, dwelling units that were once rooming houses can be re-marketed as whole house rentals rather than by the room.

All property owners in RS, RM-1, and RM-2 zones would continue to be allowed to rent up to two rooms to two boarders or lodgers as an accessory use to a primary dwelling unit. (SDMC §141.0301) It should also be noted that the ordinance will not apply to housing for disabled persons, such as the mentally ill, which are protected by federal and state fair housing laws, and will not apply to senior and transitional housing that is otherwise subject to Separately Regulated Use regulations in Chapter 14, Article 1 of the Land Development Code.

Greene

**NOTE:** Development Services Department issued an exemption for the ordinance on the basis that it is categorically exempt pursuant to following state CEQA Guideline, Section 15301, for existing facilities.

Staff: Marianne Greene - Deputy City Attorney – (619) 533-5822

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:28 p.m. - 5:00 p.m.)

Testimony in favor by Cathleen Kenney, Tyler Sherer, April Boling, Rosary Nepi, Karen Hayes, Deborah Parker, Duane Shockey, Shirley Foretic, Doug Case, Andy Beauparlant, Ann Cottrell, Bernardine Wortman, Daniel Schwimmer, Robert Pierchio, Paul Martin, Rob Nelson, and Michael Jenkins.

Testimony in Opposition by Paul Hastie, Alan Pentico, and Tim Sankary.

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



ITEM-S400: Extension of Agreement with Mercer Consulting for Additional Services Related to the Proposed Pension Plan.

(See memorandum from Jay Goldstone dated 3/17/2008.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-795) CONTINUED TO TUESDAY, APRIL 1, 2008

Authorizing the Mayor to negotiate an extension to the current agreement with Mercer Consulting for additional services related to the Proposed Pension Plan in the amount of \$185,000;

Authorizing the City Auditor and Comptroller to appropriate and expend \$185,000 from the Risk Management Fund balance, to Risk Management Department, for the purpose of funding services related to the Proposed Pension Plan.

**STAFF SUPPORTING INFORMATION:**

Like most state and local governments the City is challenged with providing and funding retirement and pension plans. In March 2007 the City issued a request for proposal (RFP) for selection of a consultant to address these issues.

Mercer Consulting was selected based on their familiarity with public and private sector retirement/pension plans and their successfully demonstrated ability to perform consulting work of a similar scope and nature.

The City entered into an agreement with Mercer Consulting to conduct a comprehensive analysis of the City's existing retirement and pension plans and to assist the City with plan design. Mercer has completed this assignment and the City has proposed the new plan to the City's labor organizations; however, additional services and meetings with Mercer and the labor organizations are required. Although these services were not part of the core requirements and deliverables they fall within the scope of work and were included in the RFP as optional consulting services, pricing included. Accordingly, a contract extension is required in order to complete the project and honor the City's obligations in the meet and confer process.

**FISCAL CONSIDERATIONS:**

The cost of the original contract was not to exceed \$250,000. This request is for an additional \$185,000, for a total not to exceed of \$435,000. Funding for this project is available in the Risk Management Fund, Fund 50061.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On March 4, 2008, City staff and Mercer presented the proposed pension plan design to the City Council in closed session.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

With the exception of sworn public safety employees, the proposed pension plan affects all new City employees hired after December 31, 2007.

VanDeweghe

Aud. Cert. 2800660.

Staff: Greg Bych - (619) 236-6651  
Lori Thacker - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 5:21 p.m. – 5:33 p.m.)

MOTION BY FRYE TO CONTINUE TO TUESDAY, APRIL 1, 2008, FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-S401: First Amendment to the Agreement with Liebert Cassidy Whitmore for Professional Consultant Services.

(See memorandum from Jay Goldstone dated 3/21/2008.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-797 Cor. Copy)

ADOPTED AS AMENDED AS  
RESOLUTION R-303500

Authorizing the City Auditor and Comptroller to transfer \$184,750 from the General Fund Unallocated Reserves to the General Fund 100 Citywide Program Expenditures Department 601, for the Consulting Agreement First Agreement;

Declaring that the remaining cost allocation will be distributed via the Fiscal Year 2008 FTE Cost Allocation;

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).

**STAFF SUPPORTING INFORMATION:**

In December of 2007, the City of San Diego (“City”) entered into an Agreement with Liebert Cassidy Whitmore (“LCW”) to provide consulting services to the City pertaining to the meet and confer process with the City’s five recognized employee organizations. The original Agreement was for a not-to-exceed amount of \$400,000. The proposed amendment would increase the not-to-exceed amount by \$250,000 for a total not-to-exceed amount of \$650,000.

The scope of LCW’s Agreement, as memorialized in the original agreement is to act as lead negotiator in the meet and confer processes for Fiscal Year 2008-2009 (or thereafter) Memoranda of Understanding with representatives of the San Diego Municipal Employees Association (MEA); the San Diego Police Officers Association; Local 127; American Federal of State, County and Municipal Employees, District Council 36, AFL-CIO and Local 145, International Association of Firefighters. Consultant shall perform or direct performance by City staff of all services reasonably related to participation by the City in said meet and confer process.

**FISCAL CONSIDERATIONS:**

Transfer \$184,750 from the General Fund Unallocated Reserves to the General Fund 100 Citywide Program Expenditures Department 601. The remaining cost allocation will be distributed via the Fiscal Year 2008 FTE Cost Allocation Schedule, to pay for the continued consulting services pertaining to the meet and confer process with the City’s five recognized employee organizations.

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

On December 18, 2007, the City Council unanimously approved the Agreement with Liebert Cassidy Whitmore for Professional Consultant Services.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: None.

EOC INFORMATION

Funding Source: City - Prevailing Wages do not apply to this contract  
Goal Requirement: No goal requirements  
Original Contract Amount: \$400,000  
Change Order Amount: \$250,000

EOC Staff is concerned about the under representations in the firm's workforce and therefore, has requested an Equal Employment Opportunity Plan and will continue to monitor the firm's effort to implement their plan. This Agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Section 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517.)

Chadwick/Goldstone

Aud. Cert. 2800663.

Staff: Scott Chadwick - (619) 236-6313  
Michael Calabrese - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:07 p.m. – 5:20 p.m.)

**MOTION BY ATKINS TO ADOPT AS AMENDED BY CHANGING THE REFERENCE TO THE FUNDING SOURCE FROM "UNALLOCATED" TO "APPROPRIATED" ON THE COST ALLOCATION BREAKDOWN SHEET. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.**

ITEM-250: **Notice** of Pending Final Map Approval – 4878 Cape May Avenue.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “4878 Cape May Avenue” (T.M. No. 360155/PTS No. 144339), located on the north side of Cape May Avenue between Cable Street and Sunset Cliffs Boulevard in the Ocean Beach Community Plan Area in Council District 2, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

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

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

**REPORT OUT OF CLOSED SESSION:**

None.

