

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, JULY 8, 2008
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Pro Tem Madaffer at 10:01 a.m. The meeting was recessed by Council President Pro Tem Madaffer at 12:05 p.m.

The meeting was reconvened by Council President Pro Tem Madaffer at 2:06 p.m. with Council President Peters not present. Council President Pro Tem Madaffer recessed the meeting at 3:15 p.m. for the purpose of a break. Council President Pro Tem Madaffer reconvened the regular meeting at 3:21 p.m. with Council Member Maienschein and Council President Peters not present. Council President Pro Tem Madaffer recessed the meeting at 4:23 p.m. for the purpose of a break. Council President Pro Tem Madaffer reconvened the regular meeting at 4:31 p.m. with Council President Peters not present. Council President Pro Tem Madaffer recessed the meeting at 5:26 p.m. to convene the Redevelopment Agency. Council President Pro Tem Madaffer reconvened the regular meeting at 5:38 p.m. with Council President Peters not present. Council President Pro Tem Madaffer recessed the meeting at 5:39 p.m. to reconvene the Redevelopment Agency. Council President Pro Tem Madaffer reconvened the regular meeting at 5:57 p.m. with Council President Peters and Council Member Maienschein not present. Council President Pro Tem Madaffer recessed the meeting at 5:58 p.m. to reconvene the Redevelopment Agency. Council President Pro Tem Madaffer reconvened the regular meeting at 6:00 p.m. with Council President Peters and Council Member Maienschein not present. Council President Pro Tem Madaffer recessed the meeting at 6:01 p.m. to convene for a special meeting as the Housing Authority. Council President Pro Tem Madaffer reconvened the regular meeting at 6:01 p.m. with Council President Peters and Council Member Maienschein not present. The meeting was adjourned by Council President Pro Tem Madaffer at 6:01 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-not present-Excused by R-303997, due to vacation
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present

- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

Clerk-Maland (dlc/mz)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

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

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:07 a.m.– 11:09 a.m.)

PUBLIC COMMENT-2:

Al Strohlein commented on destroying documents.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:09 a.m. - 11:12 a.m.)

PUBLIC COMMENT-3:

Sunshine Horton commented on a dance-a-thon.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:12 a.m. – 11:13 a.m.)

PUBLIC COMMENT-4:

Nancellé Lauffer commented on the homeless, poor and mentally ill.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:13 a.m. - 11:15 a.m.)

PUBLIC COMMENT-5:

Mark Quintana commented on anti-violence in the community.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:16 a.m. - 11:18 a.m.)

PUBLIC COMMENT-6:

Doris Lee McCoy commented on educational reform in schools.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:18 a.m. - 11:20 a.m.)

PUBLIC COMMENT-7:

Phil Hart commented on the issuance of tickets to the U.S. Open.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:21 a.m. – 11:25 a.m.)

PUBLIC COMMENT-8:

Ted Patrick commented on a killing in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:26 a.m. - 11:29 a.m..)

PUBLIC COMMENT-9:

David Ross commented on the displaced in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:31 a.m. – 11:34 a.m.)

PUBLIC COMMENT-10:

James Hartline commented on a crime in Hillcrest.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:34 a.m. – 11:37 a.m.)

PUBLIC COMMENT-11:

Helen Boyden commented on a student center.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:37 a.m. – 11:39 a.m.)

PUBLIC COMMENT-12:

Charles Mallon commented on supporting the military.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:39 a.m. – 11:42 a.m.)

PUBLIC COMMENT-13:

Joy Sunyata commented on public participation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:46 a.m. – 11:47 a.m.)

PUBLIC COMMENT-14:

Ian Trowbridge commented on redevelopment.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-15:

Jarvis Ross commented on the Grand Jury report.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:49 a.m. – 11:52 a.m.)

PUBLIC COMMENT-16:

Ray Lutz commented on citizenoversight.org

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:52 a.m. – 11:55 a.m.)

PUBLIC COMMENT-17:

Mignon Scherer commented on war and concerns.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:55 a.m. – 11:58 a.m.)

PUBLIC COMMENT-18:

Izean Rim, Jr. commented on an organization called Immigration Custom Enforcement which supports children of abuse.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:59 a.m. – 12:02 p.m.)

PUBLIC COMMENT-19:

Elinor Rector commented on various concerns.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 12:05 p.m. – 12:06 p.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council President Pro Tem Madaffer welcomed Boy Scout Troup 11 from University City to the City Council Meeting.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:30 a.m. – 10:31 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

05/12/2008
05/13/2008
05/19/2008
05/20/2008
05/26/2008 - Adjourned
05/27/2008
06/02/2008 - Adjourned
06/03/2008 - Adjourned

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:03 a.m. – 10:03 a.m.)

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

ITEM-31: National Council of La Raza Day.

**MAYOR SANDERS', COUNCILMEMBER YOUNG'S, AND COUNCILMEMBER
HUESO'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1190) ADOPTED AS RESOLUTION R-303901

Proclaiming July 8, 2008, as "National Council of La Raza Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:03 a.m. – 10:24 a.m.)

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

ITEM-32: Charles McKain Day.

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

Adopt the following resolution:

(R-2008-1158) ADOPTED AS RESOLUTION R-303902

Commending Charles McKain for the progress he has helped bring to fruition and for the imprint he has had on San Diego's LGBT and Democratic communities;

Proclaiming July 8, 2008, to be "Charles McKain Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:24 a.m. – 10:30 a.m.)

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

- * ITEM-50: First Amendment to Joint Use Agreement with San Diego Unified School District for Thurgood Marshall Middle School. (Scripps Ranch Community Area. District 5.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 6/17/2008, Item 50, Subitem A. (Council voted 6-0. Council President Peters and Councilmember Young not present):

(O-2008-163) ADOPTED AS ORDINANCE O-19767 (New Series)

Authorizing the Mayor to execute, for and on behalf of the City, a First Amendment to the Joint Use Agreement with the San Diego Unified School District for the Thurgood Marshall Middle School, under the terms and conditions set forth in the Agreement;

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

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:34 a.m.)

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

- * ITEM-51: Linda Vista Road Center Rezone Located at 7625-7631 Linda Vista Road. (Linda Vista Community Plan Area. District 6.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 6/17/2008, Item 335, Subitem B. (Council voted 6-0. Council President Peters and Councilmember Young not present):

(O-2008-158) ADOPTED AS ORDINANCE O-19768 (New Series)

Changing 2.33 acres located at 7625-7631 Linda Vista Road, within the Linda Vista Community Plan Area, in the City of San Diego, California, from the CN-1-2 Zone into the CC-1-1 Zone, as defined by San Diego Municipal Code Section 131.0507, and repealing Resolution No. R-301263, adopted February 28, 2006, of Resolutions of the City of San Diego insofar as the same conflicts herewith.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:34 a.m.)

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

- * ITEM-52: Maintenance Agreement with California State Coastal Conservancy and the Los Peñasquitos Lagoon Foundation for a Sediment Control Basin in Los Peñasquitos Canyon. (Los Peñasquitos Canyon Preserve Community Area. District 1.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 6/24/2008, Item 60, Subitem A. (Council voted 8-0):

(O-2008-75 Cor. Copy) ADOPTED AS ORDINANCE O-19769
(New Series)

Authorizing the Mayor to execute, for and on behalf of the City, an Agreement with the California State Coastal Conservancy and the Los Peñasquitos Lagoon Foundation for the operation and maintenance of a sediment control basin in Los Peñasquitos Canyon, under the terms and conditions set forth in the Agreement;

Declaring that this activity is covered under the Los Peñasquitos Lagoon Mitigated Negative Declaration, dated April 12, 2006. That this activity is adequately addressed in the environmental document and that there is no change in circumstance, additional information, or project changes to warrant additional review. Therefore, this activity is not a separate project for purposes of California Environmental Quality Act (CEQA) review pursuant to State CEQA Guidelines Section 15060(c)(3).

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:34 a.m.)

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

- * ITEM-53: Exempting a Program Manager Position from the Classified Service for the Real Estate Assets Department.

(See memorandum from Hadi Dehghani dated 5/23/2008.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2008-166) INTRODUCED, TO BE ADOPTED ON TUESDAY,
JULY 22, 2008

Introduction of an Ordinance exempting a Program Manager position from the Classified Service and declaring the position to be in the Unclassified Service of the City of San Diego, pursuant to Section 117(a)17 of the City Charter.

STAFF SUPPORTING INFORMATION:

On May 14, 2008, the Civil Service Commission reviewed a request from the Real Estate Assets Department to exempt one (1) Program Manager Position from the Classified to the Unclassified service. This position will serve as a member of the department's management team and will be responsible for managing the Real Estate Valuation Division; for reviewing complex real estate appraisals and conducting special real estate financial analyses; and for developing a valuation policy to meet established department goals and objectives. In addition, this position will also be responsible for providing oversight, coordination, and procurement of independent professional appraisers.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Barwick/Anderson

Staff: David Sandoval - (619) 236-5548
Todd F. Bradley - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:34 a.m.)

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

* ITEM-100: Inviting Bids for the Construction of Sewer Pipeline Rehabilitation, Phase H-1 Project. (Districts 2, 3, and 4.)

(See Metropolitan Wastewater Department's 4/30/2008 Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-1123) ADOPTED AS RESOLUTION R-303903

Approving the plans and specifications for construction of the Sewer Pipeline Rehabilitation, Phase H-1 Project, on Work Order No. 141391;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to award the above project contract to the lowest responsible and reliable bidder in an amount not to exceed \$6,672,083; provided that the City Auditor and Comptroller furnishes one or more certificates demonstrating that the funds necessary for expenditure under this contract are, or will be, on deposit in the City Treasury;

Authorizing the expenditure of an amount not to exceed \$7,618,478 from Sewer Fund No. 41506, CIP-46-050.0 Annual Allocation - Pipeline Rehabilitation, solely and exclusively, to provide funds for project construction and related costs; contingent on Council approval of the project in the Fiscal Year 2009 Capital Improvement Program budget and the Appropriation Ordinance and provided the

City Auditor and Comptroller furnishes one or more certificates demonstrating that the funds necessary for expenditure under established contract funding are, or will be, on deposit in the City Treasury;

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

Declaring that the above activity is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301(b), as the maintenance of existing sewer facilities. (BID-K094364C)

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 5/28/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

The Metropolitan Wastewater Department (MWWD) is requesting authorization to advertise, bid, and award a contract to the lowest responsible bidder, for the Pipeline Rehabilitation Project Phase H-1. This contract is the sixth in a series of MWWD contracts to meet the EPA requirements to rehabilitate sewer pipeline.

MWWD has inspected and assessed aging sewer mains under a separate Closed Circuit Televising (CCTV) contract and identified the need to rehabilitate a large number of deteriorated sewer mains. This project will rehabilitate approximately 10.72 miles of this pipe (0.89 mile Council District 2; 6.14 miles Council District 3; and 3.69 miles Council District 4) ranging in size from 6-inch to 15-inch diameter. Predominantly, the pipeline rehabilitation will be accomplished by installing liners inside the pipe using trenchless construction methods. All service lateral connections will be sealed between the liner and the host pipe. Approximately 100 manholes will be rehabilitated, some of which will require surface excavation. Approximately 40 end-of-line clean-outs will be installed to allow liner installation of sewer main that currently have plugged ends. All work will be located within existing City right-of-ways and easements. Work will be accomplished in various locations throughout the City.

This contract will help meet EPA requirements to reduce sewer spills while reducing maintenance costs and extending the service life of aging sewer mains. The use of trenchless technology is faster, less expensive, and less disruptive to the community than the excavation and replacement method.

EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP):

Funding Agency: City of San Diego - Prevailing wages do not apply to this contract.
Goals: 10% Mandatory Subcontractor Participation Goal, 3% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 6% Advisory Participation Goal Other Business Enterprise (OBE).
Other: Prior to award, a workforce report, and if necessary, an Equal Opportunity Plan shall be submitted. Staff will monitor the Plan and adherence to the Nondiscrimination Ordinance. EOC staff will evaluate the bidder's compliance with SCOPe. Failure to comply with SCOPe will lead to the bid being declared non-responsive. This contract will be advertised for bids in the San Diego Daily Transcript, the City of San Diego's website, and the E-Bid Board. In addition, once implemented, the Bidder's Registration Program will notify registered participants of bid opportunities. Prior to implementation of the Bidder Registration Program, the City will notify trade associations and eligible firms via fax and/or e-mail.

FISCAL CONSIDERATIONS:

The total cost of this action is \$7,618,478 and will be available in Fund 41506, CIP-46-050.0, Annual Allocation - Pipeline Rehabilitation, Phase H-1 project, contingent upon the approval of the FY09 Capital Improvement Program and Appropriation Ordinance. The project costs may be bond reimbursed approximately 80% by current or future debt financings. An Auditor's Certificate will be issued prior to contract award.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item will be reviewed by Natural Resources & Culture Committee on May 28, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Letters will be sent out to the community prior to construction phase.

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

Ferrier/Barrett

FILE LOCATION: W.O. 141391

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:34 a.m.)

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

ITEM-101: Agreement with Parsons Commercial Technology Group Inc. for As-Needed Facilities Condition Assessments for Buildings and Associated Infrastructure.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1155) CONTINUED TO TUESDAY, JULY 15, 2008

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with Parsons Commercial Technology Group Inc., for As-Needed Facilities Condition Assessments for Buildings and Associated Infrastructure (Project), under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$1,200,000 from Fund 100, Department 536, Org. No. 3100 for the purpose of providing funds for the above referenced Project;

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

STAFF SUPPORTING INFORMATION:

Facilities Division requires the assistance of a qualified professional consultant to perform an inventory and condition assessment. A condition assessment is the process of systematically evaluating capital assets in order to effectively plan repair, renewal or replacement. Facilities are complex structures with many separate but interrelated systems such as: mechanical and electrical systems, roofs, walls, windows, fire suppression systems, building automation systems and components. These individual systems require extensive renewal on cycles that vary from 10 to 50 years.

In November 2006, an outside firm completed an initial Facilities Condition Assessment of 31 essential facilities (Fire Stations, Police Stations, and Lifeguard Stations). These assessments provided an update of deferred maintenance items.

This current proposed facilities condition assessments agreement will be performed on approximately 390 facilities Citywide (Attachment 1) including but not limited to: Fire Stations, Lifeguard Stations, Police Stations, Libraries, Recreation Centers, Senior & Community Centers, Museums, Administrative Facilities and Comfort Stations. The facilities condition assessments shall be performed in accordance with the Scope of Services Exhibit A in the Agreement.

In November 2007, the City advertised for a consultant to perform facilities condition assessments via a Request for Proposal process in accordance with Administrative Regulation No. 25.70 and Council Policy 300-07. Parsons Commercial Technology Group Inc. was selected as the most qualified firm to perform this task.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency:	City of San Diego
Goals:	15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Subconsultant Participation	\$60,000 Certified MBE Firms (5%) \$180,000 Other Firms (15%)
Other:	Workforce Report submitted - Equal Opportunity Plan required. Staff will monitor plan and adherence to Nondiscrimination Ordinance.

To support its Equal Opportunity Contracting commitment, the City has established voluntary participation levels. The goal for this contract is 15% Voluntary Subconsultant Participation. To ensure the City meets the goals in the Equal Opportunity Contracting Program, Parsons Commercial Technology Group Inc. has selected The Multi-Cultural Contractors Group, a local firm specializing in Equal Opportunity Contracting as one of their subconsultants and identified them as part of the contracts project organization and key personnel team.

The minority business owners under Other Firms (15%) are in the process of becoming MBE certified within sixty (60) days. This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

FISCAL CONSIDERATIONS:

This action would authorize the appropriation and expenditure of funds in the amount not to exceed \$1,200,000 from the Fiscal Year 2008 General Services Department Operating Budget (536).

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include San Diego residents, tourists and City staff.
Projected Impacts: None associated with this action.

Sierra/Jarrell

Aud. Cert. 2800882.

Staff: Bob Garcia - (619) 525-8500
Michael P. Calabrese - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:08 p.m. – 2:10 p.m.)

MOTION BY HUESO TO CONTINUE TO TUESDAY, JULY 15, 2008, ON THE ADVICE OF THE CITY ATTORNEY TO ALLOW FOR COMPLETE INCLUSION OF SUPPORTING DOCUMENTS. Second by Faulconer. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-102: Memorandum of Agreement Between the City of San Diego Police Department and National Insurance Crime Bureau to Accept Grant Funds for Designated Auto Theft Operations.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-903) ADOPTED AS RESOLUTION R-303904

Authorizing the Mayor, or his designee, including the Chief of Police, for and on behalf of the City of San Diego, to enter into an Agreement with and to accept funds from National Insurance Crime Bureau (NICB) for the purpose of investigating vehicle thefts, recovering stolen vehicles, and related activities;

Declaring that this authority includes the execution of all aspects of fund and program operation, including any amendments, extensions, augmentations, or renewals of funding from the NICB, for a period of up to five years, so long as there are no material changes to the scope and effort of the grant activities;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend an amount not to exceed \$15,000 per year for up to five years in grant funds if grant funding is secured;

Declaring that the City shall comply with all applicable statutory and regulatory requirements;

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

Declaring that this agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, San Diego Municipal Code Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

STAFF SUPPORTING INFORMATION:

SDPD and the National Insurance Crime Bureau (NICB) have worked collaboratively on numerous auto theft investigations.

Recently, a San Diego Police Department Confidential Informant (CI) was approached by a suspect claiming to have ten stolen high-end vehicles for sale. The vehicles were stored at an unknown location while awaiting sale to unscrupulous buyers. SDPD confirmed the identity and outstanding stolen status of a Cadillac Escalade based on information provided by the CI.

NICB proposed to provide \$5,000 for SDPD to effect a purchase as part of the investigation. However, time and administrative constraints prevented SDPD from accepting the funds, and the suspect disposed of the vehicles.

The original limited focus of this case has since evolved into a plan for a “Buy Fund” to be provided by NICB for use by SDPD Auto Theft Detectives when they receive information regarding availability for sale of stolen vehicles. The availability of the “Buy Fund” will assist in the identification and prosecution of associates of the original target who are professional/career criminals involved in auto theft and the sale of stolen vehicles.

Based on the repeated success of “storefront” operations conducted jointly within San Diego County, it is anticipated there will be a significant number of suspects identified once these funds are available. The availability of funds to purchase stolen vehicles when the opportunity arises will help preserve the value of the vehicles, as they will be in law enforcement custody shortly after the theft, and less likely to be damaged or stripped. Additionally, the timely purchase of stolen vehicles will assist in the successful prosecution of the suspects, based on the proximity of the sale relative to the time of theft.

EEO:

This agreement is subject to the City’s Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

FISCAL CONSIDERATIONS:

Approval of this MOA will result in no additional direct costs to the City or SDPD. There is no requirement for matching funds, not to continue program operations or expenditures if funding is discontinued by NICB.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Potential reduction in thefts of high-end automobiles may result in positive fiscal results for various dealers, businesses and individuals.

Lansdowne/Olen

Staff: Sgt. Greg Sloan - (619) 531-5720
Linda L. Peter - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:38 a.m.)

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

* ITEM-103: Vista Terrace Park Tot Lot Upgrade. (San Ysidro Community Area. District 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1161) ADOPTED AS RESOLUTION R-303905

Authorizing the City Auditor and Comptroller to transfer \$70,000 from
CIP-37-064.0, Americans with Disability Act (ADA) Improvements Annual
Allocation, to CIP-29-916.0, Vista Terrace Tot Lot Upgrades, within Fund No.
302453, Capital Outlay Miscellaneous Revenue;

Authorizing the City Auditor and Comptroller to appropriate and expend \$70,000 in Fund No. 302453, Capital Outlay Miscellaneous Revenue from CIP-29-916.0, Vista Terrace Tot Lot Upgrades, for the purpose of accessibility upgrades to Vista Terrace Park and Tot Lot;

Declaring this activity is not subject to the California Environmental Quality Act (CEQA) per CEQA Section 15061(b)(3).

STAFF SUPPORTING INFORMATION:

The playground equipment at the tot lot at Vista Terrace is very old, some pieces are not functioning, and the playground is not up to current accessibility standards. This CIP was created to upgrade the playground equipment. Upgrades include replacement of play equipment, additional signage identifying equipment for appropriate age groups. These additional funds will provide for the improvements to the accessible path of travel from the parking lot to the tot lot, and improvements to the accessibility of the playground and equipment itself.

EQUAL OPPORTUNITY CONTRACTING:

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

The Vista Terrace Park Tot Lot Upgrade will be awarded under the Mayor's authority to award contracts when Council has approved the project and funding. Prior to award of any contract, a work force report, and if necessary, an Equal Opportunity Employment Plan shall be submitted. EOC staff will evaluate the bidder's compliance with the contract goals and the good faith effort.

Failure to comply with the programs requirements will lead to the bid being declared non-responsive.

Funding Agencies: City of San Diego and State of California
Prevailing Wages: State prevailing wages apply.

FISCAL CONSIDERATIONS:

Total project funding for these upgrades will be \$451,617. No additional operating costs are anticipated as a result of these improvements.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On April 2, 2007, Council approved the addition of CIP-29-916.0 to the 2007 Fiscal Year CIP Budget (R-302489), and funded the project with \$240,000 from San Ysidro DIF funds, and \$141,617 from two State of California grants.

In March 2002, California voters approved Proposition 40, the \$2.6 billion 2002 State Resources Bond “Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002.” On December 8, 2003, the Mayor and City Council approved Resolution R-298699, which included a distribution of the \$11,063,430 Per Capita/Roberti-Z’berg-Harris Per Capita funds to each Council District, with a portion of the funding set aside for projects with Citywide and regional impact. On February 20, 2004, the City entered into an umbrella contract with the State of California for the 2002 Resources Bond Act Per Capita/Roberti-Z’berg-Harris Per Capita Grant Program.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The San Ysidro Recreation Council has identified and supports the improvements. In June 2007, Staff met with members of Aventuras Para Niños to determine program requirements. A member of the Aventuras Para Niños has been invited to sit on the panel to select the Design/Build Contractor.

STAKEHOLDERS AND PROJECTED IMPACTS:

San Ysidro Recreation Council, Aventuras Para Niños, and Vista Terrace Park Visitors.

Boekamp/Jarrell

Aud. Cert. 2800845.

Staff: Samir Mahmalji - (619) 533-5301
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m.– 10:34 a.m.)

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

- * ITEM-104: Lifeguard Rescue Vessel Reimbursement from the State of California, Department of Boating and Waterways. (Pacific Beach Community Area. Districts 2 and 6.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1165) ADOPTED AS RESOLUTION R-303906

Authorizing the Mayor, or his designated representative, to accept a reimbursement from the State of California, Department of Boating and Waterways (DBW) for the amount of \$80,000.

STAFF SUPPORTING INFORMATION:

The State of California, Department of Boating and Waterways, has a program designed to help local government agencies pay for the cost of purchasing vessels to be used in conjunction with law enforcement and rescue operations.

This is a reimbursement, not a grant. The Fire-Rescue Department will have to pay for the initial costs incurred to buy and outfit the vessel. Subsequently the DBW will reimburse the Fire-Rescue Department for up to \$80,000. The Fire-Rescue Department will not spend more than the reimbursable amount of \$80,000.

The Fire-Rescue Department Lifeguard Division has a fleet of aging vessels that are used daily for rescue operations, patrol and law enforcement. Due to the strenuous conditions that these boats endure every day in the Pacific Ocean and Bay, the average life span of a vessel is about 7 years. Lifeguards need to replace a vessel that has been in use for over 12 years.

FISCAL CONSIDERATIONS:

The equipment purchase will be funded through the Lifeguard Division budget. The costs will be entirely offset, at a later time, by an equal amount reimbursed by the State of California DBW to the Fire-Rescue Department. The vessel would be purchased around July/August 2008. The reimbursement will occur around December 2008.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Lifeguards and the San Diego boating community are the key stakeholders. This operation will protect the safety of mariners in the waters of the City of San Diego.

Jarman/Olen

Staff: Chief Tracy Jarman - (619) 533-4301
William J. Gersten - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:34 a.m.)

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

ITEM-105: FY 2009 Service Agreements for Administration of Eight Maintenance Assessment Districts. This action authorizes the Mayor to execute Agreements with eight nonprofit corporation for administration of Contracts for Goods and Services for Self-Managed Maintenance Assessment Districts for a one-year period in accordance with the San Diego Municipal Code Section 65.0212. The City will be reimbursed \$221,648 to oversee the assessment districts, fund engineering, legal, auditing, payment processing, budgeting and other services related to the administration of each district. (Centre City, College Area, City Heights, North Park, Greater Golden Hill, Ocean Beach, Southeastern, and Uptown Community Plan Areas. Districts 2, 3, 7, and 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1198) ADOPTED WITH DIRECTION AS RESOLUTION
R-303907

Resolution authorizing the execution of Fiscal Year 2009 Service Agreements with Self-Managed Maintenance Assessment Districts for administration of Contracts for Goods and Contracts for Services; and authorizing appropriation and expenditure of Funds for administrative fees.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

The City Council is being asked to authorize the following actions by Resolution:

1. Authorizing the Mayor to execute Agreements with the Adams Avenue Business Association, Central Commercial District Revitalization Corporation, City Heights Business Association, College Area Economic Development Corporation, Greater Golden Hill Community Development Corporation, Hillcrest Business Association, Little Italy Association and Ocean Beach Main Street Association for administration of Contracts for Goods and Contracts for Services for the Adams Avenue, Central Commercial, City Heights, College Heights, Greater Golden Hill, Hillcrest Commercial Core, Little Italy and Newport Avenue Maintenance Assessment Districts for a one year period in accordance with the San Diego Municipal Code Section 65.0212. The effective date and term of the Agreement is July 01, 2008 through June 30, 2009.
2. Authorizing the City Auditor and Comptroller to expend Funds for administration services to be provided by Adams Avenue Business Association, Central Commercial District Revitalization Corporation, City Heights Business Association, College Area Economic Development Corporation, Greater Golden Hill Community Development Corporation, Hillcrest Business Association, Little Italy Association and Ocean Beach Main Street Association beginning July 01, 2008 through June 30, 2009, contingent upon approval of the Fiscal Year 2009 Appropriation Ordinance.
3. Approve the transfer of City administrative fees totaling \$221,648 from Adams Avenue, Central Commercial, City Heights, College Heights, Greater Golden Hill, Hillcrest Commercial Core, Little Italy, Newport Avenue Maintenance Assessment Districts and Downtown Property & Business Improvement District to Fund 70267.
4. Authorizing the City Auditor and Comptroller to expend Funds in an amount not to exceed \$221,648 from Fund 70267 for City administration of Adams Avenue, Central Commercial, City Heights, College Heights, Greater Golden Hill, Hillcrest Commercial Core, Little Italy, Newport Avenue Maintenance Assessment Districts and Downtown

Property & Business Improvement District for Fiscal Year 2009 contingent upon approval of the Fiscal Year 2009 Appropriation Ordinance.

STAFF RECOMMENDATION:

Approve all the requested actions mentioned above.

EXECUTIVE SUMMARY:

The San Diego Municipal Code allows non-profit corporations to administer MADs when an assessment weighted majority of district property owners support the selection of a particular non-profit corporation for their district. The San Diego Municipal Code Section 65.0212 paragraph (b)(2), authorizes the City Council to approve a one year Agreement with non-profit corporations to administer the Contracts for Goods and Contracts for Services in Maintenance Assessment Districts (“MADs”). The property owner selected non-profit corporations (“Associations”) have managed their annual Agreements since the inception of each MAD and wish to continue their contract with the City from July 01, 2008 through June 30, 2009. This action will authorize the Mayor to execute Agreements between the City and the Associations for a period of one year beginning on July 01, 2008 through June 30, 2009. The Agreements provide the following:

1. The Associations will administer Contracts for Goods and Contracts for Services and prepare financial statements for their respective Districts as provided for in the Maintenance Assessment District Ordinance, Landscape and Lighting Act of 1972, and as set forth in the Assessment Engineer’s Report for the Adams Avenue, Central Commercial, City Heights, College Heights, Greater Golden Hill, Little Italy and Newport Maintenance Assessment Districts.
2. The Associations will perform all duties as set forth in each of their respective Agreements under Article I, Section B, referred to as Specific Requirements.
3. The Associations will be compensated for administration in an amount not to exceed 15% of the total approved assessments for FY09. Projected total annual assessments for the following Assessment Districts in FY09 are **\$8,192,768**.

This action will also authorize the transfer of \$221,648 to Fund 70267 to Fund City administration (by the Economic Development Division of the City Planning and Community Investment Department) of the Adams Avenue, Central Commercial, City Heights, College Heights, Greater Golden Hill, Hillcrest Commercial Core, Little Italy and Newport Avenue self-managed MADS as well as the Downtown Property & Business Improvement District (PBID) for Fiscal Year 2009. Additionally, this action authorizes the expenditure of Funds, in an amount

not to exceed \$221,648 in Fiscal Year 2009, from Fund 70267 for the administration of the above referenced self-managed MADs and PBID by the Economic Development Division. City administrative fees in self-managed maintenance assessment districts range from a minimum of \$3,500 to a maximum of 4% of total assessments and will be used to Fund engineering, auditing, payment processing, budgeting and other services related to the administration of each district.

District	Assessment Amount	Non-Profit Administration Fee	City Administration Fee
Adams Avenue MAD	\$ 50,200	\$ 7,530	\$ 3,500
Central Commercial MAD	\$ 218,547	\$ 32,782	\$ 8,742
City Heights MAD	\$ 302,095	\$ 45,314	\$ 12,084
College Heights MAD	\$ 270,325	\$ 40,549	\$ 10,813
Greater Golden Hill MAD	\$ 489,012	\$ 60,000	\$ 19,560
Hillcrest Commercial Core MAD	\$ 89,950	\$ 8,995	\$ 3,598
Little Italy MAD	\$ 746,266	\$ 111,940	\$ 29,851
Newport MAD	\$ 57,101	\$ 8,565	\$ 3,500
Downtown PBID	\$ 5,969,272	N/A	\$130,000
Total	\$ 8,192,768		\$221,648

FISCAL CONSIDERATIONS:

Under the terms of the agreements, the City will be reimbursed \$221,648 for administrative services.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Approving the MAD agreements with the respective non-profit business associations is an annual process. The previous Council action was taken in June 23, 2008, and adopted as Resolutions R-303871 and R-303872, where Council approved the FY2009 Assessment Engineering Reports and Declared its intent to Levy Assessments in each Maintenance Assessment District.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Each district holds regular meetings and publishes regular newsletters which are distributed to the property owners in the respective MADs.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Key stakeholders are the business community and the property owners within the self managed districts.

Aud. Cert. 2800908.

NOTE: This activity is not a project and therefore not subject to CEQA pursuant to the State CEQA Guidelines Section 15060(C)(3).

Kessler/Anderson/LO

Staff: Luis Ojeda – (619) 236-6475
Kimberly K. Kaelin - Deputy City Attorney

FILE LOCATION: STRT-M-518 FY2009 (34)

COUNCIL ACTION: (Time duration: 10:38 a.m. – 11:04 a.m.)

MOTION BY HUESO TO ADOPT THE RESOLUTION WITH DIRECTION TO STAFF TO EXAMINE A MECHANISM FOR MEDIATION SERVICES ON AN ON-GOING BASIS SPECIFIC TO GREATER GOLDEN HILL. Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-106: U.S. Open Week.

MAYOR SANDERS' AND COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-1153) ADOPTED AS RESOLUTION R-303908

Proclaiming June 9 to 15, 2008, as “U.S. Open Week” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:34 a.m.)

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

* ITEM-107: Southern California Yeshiva High School Day.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-1154) ADOPTED AS RESOLUTION R-303909

Commending Southern California Yeshiva High School for its substantial contributions to San Diego;

Declaring that Wednesday, May 7, 2008, be named "Southern California Yeshiva High School Day" in the City of San Diego in celebration of 60 years of independence in Israel.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:34 a.m.)

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

ITEM-108: Sempra Energy Day.

COUNCILMEMBER HUESO'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1093) ADOPTED AS RESOLUTION R-303915

Proclaiming July 1, 2008, to be "Sempra Energy Day" in the City of San Diego in recognition of its 10-year anniversary and the utility services provided to the citizens of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:30 p.m.)

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

* ITEM-109: Excusing Council President Scott Peters from Attending the City Council Meeting on June 17, 2008.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-1171) ADOPTED AS RESOLUTION R-303910

Excusing Council President Scott Peters from attending the regularly scheduled City Council meeting of June 17, 2008, to participate in a community event.

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

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:34 a.m.)

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

ITEM-110: Declaring a Continued State of Emergency Regarding the Wildfires.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-888) ADOPTED AS RESOLUTION R-303916

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 Emergency Regarding the Wildfires

COUNCIL ACTION: (Time duration: 2:30 p.m. – 2:31 p.m.)

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

* ITEM-111: 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-2008-818) ADOPTED AS RESOLUTION R-303911

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

FILE LOCATION: GEN'L – State of Emergency Due to Severe Shortage of
Affordable Housing

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:34 a.m.)

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

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

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-1111) ADOPTED AS RESOLUTION R-303912

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

FILE LOCATION: GEN'L – State of Emergency Regarding the Discharge of
Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:34 a.m.)

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

* ITEM-113: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-866) ADOPTED AS RESOLUTION R-303913

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 Emergency Regarding the Landslide on
Mount Soledad

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:34 a.m.)

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

ITEM-330: Authorizing Continued Retention and Payment for Invoices and Future Reserve Funding for Latham & Watkins, LLP for Legal Services in *Marcus Abbe et al. v. City of San Diego*, and *San Diego Police Officers' Association v. City of San Diego*.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-716) ADOPTED AS RESOLUTION R-303914

Authorizing the City Attorney to continue the retention of Latham & Watkins, LLP, for an additional amount not to exceed \$1,000,000, to provide legal services in *Marcus Abbe, et al v. City of San Diego*, USDC Case No. 05cv1629 and *San Diego Police Officers' Association v. City of San Diego*, Superior Court Case No. 37-2007-00082592-CU-OE-CTL;

Authorizing the City Auditor and Comptroller to expend the amount not to exceed \$1,000,000 from the Public Liability Fund, solely and exclusively, for the purpose of providing funds for the above described legal services, contingent upon the City Auditor and Comptroller first furnishing one or more certificates demonstrating that the funds necessary for expenditures are, or will be, on deposit in the City Treasury;

Declaring that Council considered the authorization request in Closed Session on January 22, 2008. Councilmember Frye moved to authorize the additional funding which was seconded by Council President Peters. The motion passed 5 to 1 with Councilmember Hueso voting "No." Councilmembers Falconer and Atkins were absent.

SUPPORTING INFORMATION:

SDPOA #2 and SDPOA #7 have been combined for billing purposes at this time.

1. *Marcus R. Abbe, et al. v. City of San Diego*, USDC Case No. 05cv1629 DMS (SDPOA #2)

On August 16, 2005 current and former San Diego Police Department officers filed a lawsuit against the City in the case of *Marcus R. Abbe, et al. v. City of San Diego*, USDC Case No. 05cv1629 DMS. The case has been consolidated by the United States District Court with a related case, *Burkett v. City of San Diego*, USDC Case No. 05cv1629 DMS. There are approximately 1500 Plaintiffs.

The Plaintiffs contend that their rights to compensation, including overtime pay, under the Fair Labor Standards Act have been violated by the City. The Plaintiffs are demanding \$250 million in compensation. The District Court has granted partial summary judgment in favor of the City. The Plaintiffs are in the process of appealing the summary judgment ruling and the District Court has stayed proceedings in the interim.

**2. *San Diego Police Officers' Association v. City of San Diego*, Superior Court
Case No. 37-2007-00082592-CU-OE-CTL (SDPOA #7)**

After the District Court in SDPOA #2 determined that the Plaintiff police officers are subject to an exemption under the Fair Labor Standards Act (“§207(k) exemption”) for payment of overtime, the SDPOA filed this lawsuit in State Court. The SDPOA seeks a writ of mandate for violation of the Meyer-Milias Brown Act. The SDPOA contends that the City cannot unilaterally impose such an exemption from payment of overtime.

In Closed Session on January 22, 2008, the Council was informed of the status of SDPOA #2 (and probable appeal) and SDPOA #7. The Council was informed of the need for additional funding and that funding would come from the Public Liability Fund.

The total amount requested for these two cases in the resolution is thus \$1 million for Latham & Watkins.

FISCAL CONSIDERATIONS:

Authorize an additional \$1 million to provide the defense to the City of San Diego in SDPOA #2 *Marcus R. Abbe, et al. v. City of San Diego*, USDC Case No. 05cv1629 DMS and SDPOA #7 *San Diego Police Officers' Association v. City of San Diego*, Superior Court Case No. 37-2007-00082592-CU-OE-CTL.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Council was informed in Closed Session on January 22, 2008, for the need for additional authorized funding for defense of POA #2 and POA #7. Councilmember Frye moved to authorize the additional funding which was seconded by Council President Peters. The motion passed 5 to 1 with Councilmember Hueso voting “No.” Councilmembers Falconer and Atkins were absent.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Latham & Watkins, LLP.

Schaefer

Aud. Cert. 2800895.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:34 a.m.)

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

ITEM-331: Housing Enhancement Loan Program in the North Park Redevelopment Project Area. (North Park Community Area. District 3.)

(See Redevelopment Agency Report No. RA 08-18/RTC 08-094.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1121) ADOPTED AS RESOLUTION R-303917

Making certain findings relating to the use of low- and moderate-income housing tax increment (Set-Aside) funds outside of the North Park Redevelopment Project Area for the North Park Redevelopment Housing Enhancement Loan Program;

Declaring that the Set-Aside Funds in the amount of Four Hundred Seventy Thousand Dollars (\$470,000) shall be utilized for the "North Park Redevelopment Housing Enhancement Loan Program" in the North Park Redevelopment Project Area and Greater North Park Community Planning Area.

STAFF SUPPORTING INFORMATION:

The proposed North Park Redevelopment Project Area Housing Enhancement Loan Program (HELP) provides forgivable loans to assist low- and moderate-income households offset the cost of qualified improvements. The loans will be used to address interior and exterior conditions of properties to repair health and safety hazards and to rehabilitate, repair and install improvements, including improvements not eligible in existing rehabilitation programs such as fencing, sidewalks and landscaping. The loans may be increased up to an additional \$5,000 for qualifying energy and water conserving improvements.

The Agency would enter into an agreement with the Housing Commission to administer and provide outreach services for the program.

FISCAL CONSIDERATIONS:

This agreement proposes to expend up to \$470,000 from the Agency's Low- and Moderate-Income Housing Set Aside Funds (Line of Credit) for North Park. Adequate funds are currently available for the proposed program.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On January 8, 2008, the PAC voted 10-0-0 to recommend the approval of the Housing Enhancement Loan Program Guidelines and the \$470,000 expenditure from the Low and Moderate Income Housing Set Aside Funds (Line of Credit) for North Park.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Owner-occupants of one- and two-unit properties within the Greater North Park Community whose gross household income is not greater than 100% of the Area Median Income.

Weinrick/Anderson

Staff: Michele St. Bernard - (619) 236-6531
Kendall D. Berkey - Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda of July 8, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:00 p.m. – 6:01 p.m.)

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

ITEM-332: NTC Park Aquatic Center Planning and Design Funding. (Peninsula Community Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1187) ADOPTED AS RESOLUTION R-303918

1. Declaring that the findings for expenditure of funds for the NTC Park Aquatic Center (Project) are of benefit to the NTC Redevelopment Project Area and are hereby approved and adopted;
2. Authorizing the transfer from the Redevelopment Agency to CIP-29-976.0, Fund 10294, for purposes of planning and designing the NTC Park Aquatic Center;
3. Amending the Fiscal Year 2009 Capital Improvements Program Budget by adding CIP-29-976.0, Fund 10294, NTC Park Aquatic Center, in the amount of \$466,726;
4. Authorizing an increase in the amount of \$466,726 in the Fiscal Year 2009 Capital Improvement Program Budget for CIP-29-976.0, Fund 10294, NTC Park Aquatic Center, from the NTC Redevelopment Project Line of Credit funds from the Redevelopment Agency;
5. Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$466,726 in CIP-29-976.0, Fund 10294, NTC Park Aquatic Center, from the NTC-RDA Contribution to CIP Fund for the purpose of planning and design of the Project;
6. Declaring that the actions in Sections 2-5 above are contingent upon the City's identification and allocation of sufficient funding for construction of the NTC Park Aquatic Center, consistent with the Second Amendment to NTC Improvement Agreement, approved by the City Council on May 19, 2008, by Resolution No. RR-303698;

7. Declaring that this activity is not subject to California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

The NTC Park General Development Plan approved by the City Council in 2003 and the California Coastal Commission in 2004 included a conceptual design for a future pool complex. This aquatic center has been discussed and considered since the NTC Park Reuse Subcommittee met during the community input sessions to create the NTC Reuse Plan which was adopted in October 1998.

The Second Amendment to the NTC Park Improvement Agreement approved by the Redevelopment Agency and City Council on May 13, 2008, included a funding obligation from NTC Redevelopment funds for \$466,726 toward the future NTC Park Aquatic Center. At this time, this funding is being provided from the NTC Non-Housing Line of Credit to a new CIP account for the NTC Park Aquatic Center. These funds will be used to initiate the planning and design phase of the Aquatic Center.

FISCAL CONSIDERATIONS:

The \$466,726 will be transferred from the NTC Non-Housing Line of Credit to the new NTC Park Aquatic Center CIP account. This action was included in the unallocated projects section of the FY 2009 Redevelopment Budget for NTC.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On May 13, 2008, the Redevelopment Agency and City Council approved the Second Amendment to the NTC Park Improvement Agreement.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On June 19, 2008, the Peninsula Community Planning Board received an informational report regarding this funding. No vote was taken, but they were supportive of the project.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

None with this action.

Weinrick/Anderson

Staff: Libby Day - (619) 236-6272
Shannon Thomas - Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda of July 8, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:57 p.m. – 5:57 p.m.)

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

ITEM-333: Consultant Agreement with RECON Environmental, Inc. for the Preparation of the Barrio Logan Community Plan Update Environmental Impact Report. (Barrio Logan Community Area. District 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-1186) ADOPTED AS RESOLUTION R-303919

Authorizing the City Auditor and Comptroller to transfer \$101,883.80 from Redevelopment Agency Fund 98410-Horton Plaza PHII to City Fund 10293 "RDA Contribution to City Planning and Community Investment" for the purpose of executing an agreement with RECON Environmental, Inc. (Consultant);

Authorizing the Mayor, or designee, to execute an Agreement with Consultant in the amount of \$451,883.80 for professional environmental document preparation services to assist in implementing the update to the Barrio Logan Community Plan and corresponding zoning regulations;

Authorizing the appropriation and expenditure of \$101,883.80 from Fund 10293 "RDA Contribution to City Planning and Community Investment" for the purpose of executing the agreement with Consultant, contingent upon the City Auditor and Comptroller first certifying funds for this action are available;

Authorizing the appropriation and expenditure of \$350,000 from Fund 38355 “Barrio Logan Sustainable Communities Grant” for the purpose of executing this agreement, contingent upon the City Auditor and Comptroller first certifying funds for this action are available pending receipt of a fully executed grant agreement;

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

STAFF SUPPORTING INFORMATION:

The City of San Diego conducted a competitive bidding process for the selection of an environmental consultant for the Barrio Logan Community Plan update. As a result of the competitive bidding process, the City has selected RECON Environmental, Inc. consultants to provide professional environmental services to complete an EIR in conjunction with the new community plan that is being developed under a separate consultant contract. As part of the process, City staff and RECON will ensure that the community of Barrio Logan will be fully engaged in the environmental assessment of the community plan.

The list of firms that were used to solicit this RFP came primarily from the City’s Consultant Rotation List. The Consultant Rotation List was advertised in the following advertisements: *La Prensa*, *San Diego Voice and Viewpoint*, the *Asian Journal*, the *San Diego Daily Transcript*, City of San Diego web pages, and Integrated Marketing Systems. A cursory review was also done in the City’s “DEVO” Program (Diverse Emerging Vendor Outreach, managed by the San Diego County Hispanic Chamber of Commerce), and there were no viable firms available on this list relative to this RFP’s scope of work.

FISCAL CONSIDERATIONS:

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). A portion of the costs, \$101,883.80, associated with this environmental consultant contract will be paid for with the Horton Plaza Redevelopment funds. A planning consultant and economic consultant have been hired under separate contracts to prepare the necessary analysis and documents to support the plan update effort.

In October 2007, the City received notification from the State of California of a Sustainable Communities Grant award in the amount of \$350,000 for the Barrio Logan Community Plan Update EIR preparation. Based on this notice, on February, 5, 2008, the City Council authorized (R-2008-520) the City to accept, appropriate and expend an amount not to exceed \$350,000 from the California Pollution Control Financing Authority funds under the Sustainable Communities Grant and Loan Program for the purpose of preparing studies and related expenses for the Barrio Logan Plan Update EIR preparation. These funds will be utilized for the purpose of funding the EIR consultants work for preparing the required environmental documents.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:

On January 31, 2007, the CCDC Board of Directors voted 6-0 to recommend that the Agency approve the budget amendment and authorize the expenditure of up to \$1.5 million in support of the Barrio Logan Community Plan Update.

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 25 voting members and eight ex-officio non-voting members (Attachment A). 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 and environmental 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):

RECON Environmental Inc. consultants and sub consultants; the Barrio Logan Community Plan Update Stakeholder Committee members; and general members of the Barrio Logan community. Projected impacts will be studied as part of the Barrio Logan Community Plan Update process.

Wright/Weinrick/Anderson/Graham

Staff: Lara Gates - (619) 236-6006
Carol A. Leone - Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda of July 8, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:38 p.m. – 5:39 p.m.)

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

ITEM-334: 4532 Felton Street Vesting Tentative Map, Project No. 97653. Appeal of the Planning Commission's decision approving a Vesting Tentative Map to convert seven existing apartments to condominiums, including a request to waive the requirement to underground existing overhead utilities. (Normal Heights Neighborhood of Mid-City Communities Plan Area. District 3.)

Matter of the appeal by D. Scott Peters, Sterling Land Services, Inc., Surveyor from the decision of the Planning Commission in approving Vesting Tentative Map to convert seven existing residential units to condominiums, including a request to waive the requirement to underground existing overhead utilities, on a 0.152-acre site located at 4532 Felton Street in the RM-1-2 Zone of the Central Urbanized Planned District and the Transit Area Overlay Zone, within the Normal Heights Neighborhood of Mid-City Communities Plan Area.

(Continued from the meetings of April 22, 2008, Item 334, and May 6, 2008, Item 334; last continued at the request of Councilmember Hueso, for referral to the Land Use & Housing Committee for policy discussion regarding condo conversions.)

NOTE: Hearing closed. Testimony taken.

STAFF'S RECOMMENDATION:

Take the following actions: CONTINUED TO TUESDAY, SEPTEMBER 23, 2008

Adoption of a resolution granting or denying the appeal and granting or denying the Vesting Tentative Map 318386 to convert seven existing residential units to condominiums, including the request to waive the requirement to underground existing overhead utilities, with appropriate findings to support Council action;

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

OTHER RECOMMENDATIONS:

Planning Commission on February 14, 2008, voted 4-1-2 to approve this project.

Ayes: Smiley, Schultz, Ontai, Otsuji
Nays: Griswold
Not present: Naslund
Vacancy: one

The Normal Heights Planning Committee has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the Planning Commission's decision to approve a Vesting Tentative Map to convert seven existing apartments to condominiums, including a request to waive the requirement to underground existing overhead utilities, at 4532-34 Felton Street, in the RM-1-2 Zone of the Central Urbanized Planned District and the Transit Area Overlay Zone, within the Normal Heights neighborhood of the Mid-City Communities Plan area. The applicant is appealing the Vesting Tentative Map condition requiring that the physical improvements recommended in the Building Conditions Report be completed prior to the recordation of Final Map.

STAFF RECOMMENDATION:

Deny the appeal and approve Vesting Tentative Map No. 318386, including the waiver of the requirement to underground existing overhead utilities, with the current Vesting Tentative Map conditions requiring implementation of the Building Conditions Report and Landscape Concept Plan, prior to recordation of the Final Map.

EXECUTIVE SUMMARY:

The application for a Vesting Tentative Map and waiver from the requirement to underground existing overhead utilities was deemed complete on March 3, 2006. Although at that time the condominium conversion regulations did not require a Building Conditions Report or landscape improvements, this project is subject to the condominium conversion regulations 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. At the June 13, 2006, hearing, the City Council adopted regulations for additional requirements for landscaping, a building conditions report, onsite inclusionary housing, 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.

Accordingly, this project has been reviewed against the new regulations. In accordance with the current regulations, the applicant provided a Building Conditions Report and Landscape Concept Plan. Both of these documents have been reviewed for conformance with the applicable regulations within the Land Development Code (Chapter 14, Article 4, Division 5), and have been accepted by staff as conforming to the regulations.

The environmental determination for this project was made on March 15, 2006, and the opportunity to appeal that determination expired on April 5, 2006. This project's environmental determination was not appealed.

On February 14, 2008, the Planning Commission approved the project with a condition (Condition No. 22 of the Vesting Tentative Map Resolution, Attachment 6, page 7 of the Planning Commission Report) requiring building and landscape improvements as identified in the submitted Building Conditions Report and Landscape Plan to be completed prior to recordation of the Final Map.

The applicant has appealed the Planning Commission's decision, citing the following: *"The project was deemed complete on March 4, 2006. The owner/applicant requested a "Deferral of Private Building Improvements," the performance of which would be assured by a lien upon the Title/Policy."* This statement is true (although the project was deemed complete on March 3, 2006). The applicant requested the Planning Commission defer these improvements. However, the Planning Commission discussed this issue at length, both in relation to this project, and in general. Commissioner Griswold stated that "a Building Conditions Report created at one period of time becomes irrelevant at a future date," and asked the City Council to consider the Planning Commission's position and recommendations on this issue. Additionally, the Condominium Conversion regulations were amended by City Council on July 5, 2006, making the new requirements applicable to this project.

In several previous appeals in 2007-2008, the City Council adopted a compromise which allows the condominium converter to execute the required physical improvements prior to the sale of the first unit. City staff does not recommend that approach as it does not provide a mechanism for the City Engineer to verify that the improvements have been completed.

In the latest appeal of the issue regarding the deferring of improvements for condominium conversions, the City Council rejected the compromise and adopted staff's recommendation (Item 335 on the March 4, 2008 docket).

City staff's recommendation is to deny the appeal and approve the project with the approved Vesting Tentative Map conditions.

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On February 14, 2008, the Planning Commission voted 4-1 to approve the project as presented by staff (Griswold opposed).

On March 6, 2007, the Normal Heights Planning Committee voted 12-0-1 to recommend approval of the project with specific recommendations.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

4532 Felton Street LLC, Richard W. Mansur, Member (Applicant/Subdivider), Sterling Land Services, Inc. (Surveyor), and the property's tenants.

Broughton/Anderson/MS

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301, Existing Facilities.

Staff: Michelle Sokolowski – (619) 446-5278

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

FILE LOCATION: NONE

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

MOTION BY ATKINS TO CONTINUE TO TUESDAY, SEPTEMBER 23, 2008, AT THE REQUEST OF DEPARTMENT STAFF FOR FURTHER REVIEW. Second by Frye. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-335: Amendment to the Mid-City Communities Planned District Ordinance for an Interim Height Restriction in the Uptown Community. Amending the Mid-City Communities Planned District Ordinance to establish an interim height limitation that would limit structures above a building height of 50 and 65 feet along specific portions of 5th Avenue, Robinson Avenue, University Avenue, and Washington Street north of Upas Street within the CN-1, CN-1A, CN-2A, and CV-1 zones, and above a building height of 65 feet along specific portions of 4th Avenue, 5th Avenue, and 6th Avenue south of Upas Street with the CN-1A, NP-1, CV-1, and MR-400 zones of the Uptown Community. (Uptown Community Plan Area. Districts 2 and 3.)

Matter of approving, conditionally approving, modifying, or denying an amendment to the Mid-City Communities Planned District Ordinance to establish an interim height limitation that would limit structures above a building height of 50 and 65 feet along specific portions of 5th Avenue, Robinson Avenue, University Avenue, and Washington Street north of Upas Street within the CN-1, CN-1A, CN-2A, and CV-1 zones, and above a building height of 65 feet along specific portions of 4th Avenue, 5th Avenue, and 6th Avenue south of Upas Street with the CN-1A, NP-1, CV-1, and MR-400 zones of the Uptown Community. Where applicable, limited criteria and a Process 4 review/approval process would be allowed for projects requesting to exceed the proposed height limits. The height limitation of the proposed amendment would be in effect for 30 months or until the Uptown Community Plan Update has been adopted and would allow the City Council to approve a limited extension.

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.

(See Report to the City Council No. 08-095 (not available at Committee); and Report to the City Council No. 08-036.)

TODAY'S ACTION IS:

Introduce one of the following alternate ordinances in either Height Limit Version 1 **or** Discretionary Height Limit Version 2 (The City Planning & Community Investment Department is recommending Height Limit Version 1, but is offering an alternative proposal by the Planning Commission in Discretionary Height Limit Version 2).

(O-2008-164) Height Limit Version 1 INTRODUCED, TO BE ADOPTED
TUESDAY, JULY 22, 2008

Introduction of an Ordinance of the Council of the City of San Diego amending Chapter 15, Article 12, Division 2 of the San Diego Municipal Code by amending Section 1512.0203, by amending and renumbering previous Section 1512.0204 to Section 1512.0207, and by adding New Sections 1512.0204, 1512.0205, 1512.0206, and Figure 1512.03A, all relating to structure height limits and a Process Four Mid-City Communities Development Permit requirement for structure heights in excess of 50 or 65 feet within the Uptown Community Plan Area with a sunset provision.

OR

(O-2008-164) Discretionary Height Limit Version 2 NOTED AND FILED

Introduction of an Ordinance of the Council of the City of San Diego amending Chapter 15, Article 12, Division 2 of the San Diego Municipal Code by amending Section 1512.0203, by amending and renumbering previous Section 1512.0204 to Section 1512.0207, and by adding New Sections 1512.0204, 1512.0205, 1512.0206, and Figure 1512-03A, all relating to Process Four Mid-City Communities Development Permit requirements for structure heights in excess of 50 or 65 feet within the Uptown Community Plan Area with a sunset provision.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On March 12, 2008, LU&H voted 3-0-0 to support the ordinance with the following recommendations: 1) direct City Planning staff to provide flexibility for rooftop amenities; 2) direct the City Attorney to analyze CEQA requirements of the ordinances; 3) set a southern boundary at Upas Street; and 4) forward the Committee's actions to the San Diego Planning Commission. (Councilmembers Hueso, Atkins, and Maienschein voted yea. Councilmember Madaffer not present.)

OTHER RECOMMENDATIONS:

Planning Commission on May 8, 2008, voted 4-0-3 to recommend proposed amendment for adoption.

Ayes: Naslund, Ontai, Schultz, Otsuji
Recusing: Griswold
Not present: Smiley
One vacancy

The Uptown Planners has recommended approval of this project.

SUPPORTING INFORMATION:

REQUESTED ACTION:

Approve amendments to the Mid-City Communities Planned District Ordinance (MCCPDO) for an interim height limitation in the Uptown Community.

STAFF RECOMMENDATION:

Approve the requested action.

EXECUTIVE SUMMARY:

On October 14, 2006, the City Planning & Community Investment Department, Uptown Planners, Council Districts 2 and 3 sponsored an Uptown Community Plan Issues Workshop to hear issues from the community, developers, and residents regarding the impacts of new development, preserving community character, and improving the quality of life. Of the issues that were discussed, the desire to update the community plan was consistently raised to address the community's concerns. Additionally, many raised concerns about the potential height of buildings allowed by the community plan and existing zoning, and its effect on community character, while others spoke in favor of height as a contributing factor to creating vibrant and exciting urban communities. Prior to the October workshop and in response to recent approvals

and proposals for high-rise buildings, the Uptown Planners voted 12-0-0 on June 6, 2006, to recommend that the City Council adopt an interim height ordinance. Proponents of the ordinance expressed that such a measure was needed to seek relief from high-rise development that they considered out of scale with the existing character of the surrounding neighborhood and responsible for the exacerbating deficiencies in public facilities.

Given that the main issue of controversy was centered on the issue of building height, staff considered that an interim height measure could be utilized to prevent high-rise development projects from circumventing the public debate on building height during the update process and ensure that all development projects were vetted with the public during this process.

After further consideration, the City Planning & Community Investment Department agreed to process an amendment to the MCCPDO as part of the upcoming community plan update and to take it forward for City Council consideration.

A draft was presented at the meetings of the Uptown Planners in October and September 2007. It included an overall discretionary process with additional findings for buildings over 50 and 65 feet tall within the Mission Hills, Hillcrest, and Bankers Hill/Park west neighborhoods. However, the Uptown Planners and community members expressed that an overall discretionary process would still allow multi-story structures that were out of scale with the neighborhood. As a compromise staff agreed to incorporate a strict height limitation of 50 feet in the Mission Hills neighborhood and 65 feet in the Hillcrest neighborhood, and maintain a discretionary process with additional findings for structures exceeding 65 feet within the Bankers Hill/Park West neighborhood. Additionally, the proposed amendment would be in effect for 30 months or until the Uptown Community Plan was adopted, give the City Council the ability to extend the height limitation for up to two 180-day periods, incorporate exceptions to the strict height limits for architectural appurtenances, and exempt projects deemed complete prior to the adoption of the amended ordinance. After subsequent hearings with the Planning Commission and Land Use & Housing Committee, Upas Street was chosen to be the boundary between the strict height limitation and discretionary review areas and exceptions to the height limits were provided for stairway, rooftop equipment and screening, and sustainable development features.

An alternative to the proposed amendment could include an overall discretionary review/approval process (Process 4) instead of a strict height limit, including additional findings and limited criteria for exceeding height limits for stairways, rooftop equipment and screening, and sustainable development features as recommended by the Planning Commission on May 8, 2008.

FISCAL CONSIDERATIONS:

Costs associated with the processing of the amendment are being managed by the City Planning & Community Investment Department's work program.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The amendment was presented to the Land Use and Housing Committee on March 12, 2008. The Committee voted 3-0-0 to recommend that the City Council adopt the proposed amendment to the Mid-City Communities Planned District Ordinance and that they include an exception to the strict height limitation for sustainable development features, elevator overrides, enclosed stairways, and other non-habitable spaces and make Upas Street the boundary between the strict height limitation and discretionary review areas within the overall area affected by the amendments.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS:

City staff presented earlier drafts of the proposed amendments to the Uptown Planners on September 4, 2007 and October 2, 2007. On November 6, 2007, the Uptown Planners voted to support the proposed amendments 11-3-1. On March 4, 2007, the Uptown Planners voted 12-3-1 to designate Upas Street instead of Brookes Avenue as the boundary between the strict height and discretionary review areas within the overall area affected by the proposed amendments.

On May 8, 2008, the Planning Commission voted 4-0-3 to not include a strict height limitation as part of the amendment to the MCCPDO, but to recommend that the City Council adopt an overall discretionary review process and additional findings for projects exceeding 50 and 65 feet within the overall area affected by the amendment and that limited criteria for exceeding the height limit be included. The Planning Commission expressed concern that including a strict height component would not allow for project applicants to incorporate good design while at the same time maximizing the number dwelling units on site.

KEY STAKEHOLDERS and PROJECTED IMPACTS (if applicable):

Key stakeholders include: Uptown Planners, Mission Hills Heritage, the Independent Interim Height Ordinance Task Force, Save Our Heritage Organization, Hillcrest History Guild, the Hillcrest Town Council, San Diego Regional Chamber of Commerce, San Diego Association of Realtors, Building Industry Association, and the San Diego Housing Federation.

Anderson/Wright/MIP

LEGAL DESCRIPTION:

The amendments would apply within the Uptown Community within the City and County of San Diego.

NOTE: The proposed amendment is exempt from CEQA pursuant to Sections 15061(b)(3) and 15308 of the State CEQA Guidelines.

Staff: Marlon Pangilinan – (619) 235-5293
Nina Fain – Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:31 p.m. – 5:26 p.m.)

Testimony in opposition by Robin Munro, Nick Martin, Ian Epley, Russ Haley, Matt Adams, Mike Nagy, Alan Pentico, Ron Buckley, Tom Scott and Bruce Leidenberger.

Testimony in favor by Assembly Member Lori Saldaña, Barry Hager, Julie Hyde, Todd Gloria, Stephen Whitburn, Leo Wilson, Joy Sunyata, Daniel Soderberg, Ellen Preston, Roy Dahl, Deborah Pettry, John Stump, Ann Garwood, Michael Harris, Betty Hauck, Kim Adler, Diane Smith, Michael Varnen, George Wedemeyer, Andrew Towne, Evan Kohler, Nancy Moors, Jarvis Ross, Janet O’Dea, Tom Mullaney, Bruce Coons and Leonard Ken.

MOTION BY ATKINS TO INTRODUCE HEIGHT LIMIT VERSION 1. Second by Faulconer. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-yea.

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. – 2:07 p.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Pro Tem Madaffer at 6:01 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 6:01 p.m. – 6:01 p.m.)