DATE ISSUED: November 13, 2003 REPORT NO: 03-229

ATTENTION: Honorable Mayor and City Council
Docket of November 18, 2003

SUBJECT: De Anza Harbor Resort and Mission Bay Golf Course

SUMMARY

Issue #1 – Should the Mayor and Council make findings related to the implementation of a transition plan required to end the permanent residential use at De Anza Harbor Resort?

Issue #2 – Should the Mayor and Council authorize the City Manager to charge and collect fees pursuant to the fee schedule and expend funds for the operation of the Mission Bay Golf Course?

Issue # 3 – Should the Mayor and Council authorize the appropriation of $2 million from the San Diego Housing Commission to implement the transition plan, authorize the Auditor and Comptroller to establish funds as may be required, authorize expenditures from the fund as necessary, authorize the City Manager to enter into an agreement with the Housing Commission for this purpose, and authorize the City Manager to determine the appropriate funding source?

Manager's Recommendation(s) – 1. Make findings related to the implementation of a transition plan to end the permanent residential use at De Anza Harbor Resort. 2. Authorize the City Manager to charge and collect fees pursuant to the fee schedule and expend funds for the operation of the Mission Bay Golf Course. 3. Authorize the appropriation of $2 million from the San Diego Housing Commission to implement the transition plan, authorize the Auditor and Comptroller establish funds as may be required, authorize expenditures from the fund as necessary, authorize the City Manager to enter into an agreement with the Housing Commission for this purpose, and authorize the City Manager to determine the appropriate funding source.

Fiscal Impact – $2 million - It is anticipated that the transition plan will be funded out of ongoing revenue generated from the property. At this point, it is difficult to predict what cashflow will be available on annual basis. As a result, City staff has identified funds "at risk" to be able to implement the plan. As a backstop to any shortfalls, it is staff's intention to seek authorization to utilize Fiesta Island Sludge Mitigation Funds. As an additional funding source, $2 million of Housing Commission funds have been identified. The potential fiscal impact to implement the settlement with the residents is estimated to be between $1.5 - $4 million based upon how many residents choose to sign a settlement. If all residents do not sign a settlement, $2 million will be sufficient until Coastal Commission staff approval can be obtained.

BACKGROUND

The City of San Diego owns dedicated parkland known as Mission Bay Park. The northeastern portion of Mission Bay Park contains three properties leased to two entities with common ownership: De Anza Harbor Resort and Golf, LLC (DHRG) which operates the De Anza Harbor Resort Mobile Home Park ("De Anza") and Mission Bay Golf Course leaseholds, and De Anza Campland, LLC which leases; Campland on the Bay. The Campland lease expires in 2017 and operations will continue status quo.

Mission Bay Golf Course

Mission Bay Golf Course is situated on 45.3 acres at 2702 North Mission Bay Drive. The property includes a 2,719-yard, 18-hole executive golf course, and a driving range. It is the only night-lighted course in the City. The Course was developed and operated under a lease first executed in July 1954 that expired on July 6, 2001, and has been operating on a month-to-month lease since. A 30-day notice to terminate the lease was issued on September 17, 2003. The Park and Recreation Department will assume operations and maintenance of the course effective November 7, 2003, at 5 p.m. A restaurant on the property will be closed but may reopen at some point in the future. The City will book tee times and continue to sell golf essentials. The City will hire employees to operate and maintain the golf course, which is expected to be fully funded through course revenues. The property has not been maintained at an acceptable level to be in conformance with City Park and Recreation standards. As a result, the City will need to immediately invest in capital improvements. It is anticipated that once operations stabilize, the Course will produce some net revenue which may be used to assist in funding the transition plan for De Anza. Course fees will remain at the existing level (see Fee Schedule attached) until mid-2004 when all of the municipal golf fees will be reviewed. Staff is seeking Council authorization for the charging and collecting fees as well as the expenditure of funds for operations and maintenance of the Course.

De Anza Harbor Resort History

In 1945, Mission Bay was conveyed in trust to the City by the State of California. In 1951, the City entered into a lease for De Anza with DHRG's predecessor for "tourist and travel trailer purposes." Over time, the trailers became less mobile and used for permanent residential purposes. In the late 1970's, the legality of residential use was questioned. The City Attorney subsequently opined that use of State tidelands and dedicated park for permanent private residences was not a legal use. In 1981, the State adopted legislation (AB 447, Kapiloff) that authorized continued residential use at De Anza until the November 23, 2003, expiration of the lease. In order to be consistent with the State legislation, the Mayor and City Council approved a lease amendment in 1982 with DHRG requiring the residential mobilehome park use to cease upon lease expiration. Prior to the 1982 lease amendment, all of the mobilehome park tenants had month-to-month leases with no restrictions on rent increases. DHRG entered into long term rental agreements with approximately 98% of the then existing mobile home owners. The long-term rental agreements provided fixed rental rates and the certainty of a long-term lease. Subsequent mobilehome purchasers at De Anza signed a long-term rental agreement. All tenants have signed rental agreements that specifically acknowledged that they are aware that the lease expires on November 23, 2003, and residential use of the property will not be permitted thereafter.

The 1982 lease amendment also provided DHRG with the right to submit a redevelopment plan for the leasehold that the City could accept, reject or modify. On July 27, 1999, the Mayor and Council approved a Memorandum of Understanding ("MOU") with DHRG that authorized the City Manager to negotiate exclusively with DHRG for an Option Agreement to lease and develop a hotel and golf resort at the De Anza Harbor Resort and Mission Bay Golf Course sites. Under the terms of the MOU, DHRG had until May 23, 2003 to the exercise the Option Agreement for a new lease of the property. DHRG did not exercise the Option by May 23, 2003 and the agreement expired.

DISCUSSION

Since the expiration of the MOU, City staff has met with representatives from DHRG and the De Anza Homeowners Association to develop a transition plan for the departure of all of the residents and removal of all mobile homes and improvements from the property. After many hours of negotiation, the City was unable to accept the conditions under which DHRG would agree to remove its tenants and most structures from the property. DHRG has taken no action to remove the existing tenants and improvements from the property. This has left the City with very little time to ensure compliance with the law.

In meetings with representatives of the Homeowners' Association, the City was able to narrow many of the residents' outstanding issues but was unable to agree to all of the residents' demands. A transition plan is necessary due to the complexity of the issues involved including: the removal of mobile homes that cannot be relocated due to their age or condition; the cost of moving or demolishing homes, especially those that contain hazardous materials; the moving of approximately 1000 residents, including many on limited incomes or with other special needs; the coordination and timing of removal of over 500 mobile home units; the demands of residents for financial assistance and additional time; the legal rights of the City and other government agencies regarding the use of the property; the legal process and time required for removing uncooperative residents and their mobile homes; the establishment and building up of funds for responsible management of the property during the entire process.

The City has developed and is implementing a transition plan to address the above-listed issues, and provide for an orderly and humane departure of the residents from the property. The only way the City can implement the plan is to utilize most of the existing improvements on the property. The majority of the improvements have not been adequately maintained and are at the end of or past their useful life. As a result, the City will incur substantial expense to extend the useful life of the improvements to implement the transition plan.

Absent an agreement by DHRG to remove its tenants from the property, the City has requested DHRG's cooperation in returning the property to the City as of November 24, 2003. DHRG's cooperation in returning the property to the City is critical to ensuring the ongoing health and welfare of the existing residents.

In light of the foregoing, the City will incur substantial expense. Despite this, the City is confident that the transition will occur with minimal negative impact to the residents.

Transition Plan

On October 21, 2003, the Mayor and Council authorized staff to present a specific settlement offer to all residents. On October 22, 2003, this settlement was presented publicly at a meeting at De Anza and on October 24, 2003, draft settlement documents were mailed to all residents with a questionnaire so that each settlement can be custom drafted for each resident. Resident owners that choose to sign a settlement agreement will be able to do the following:

- They may (but are not required to) remain on the property for a minimum of 19 months and a potential maximum of 55 months;
- There will be up to 40 departure dates over 12 quarters which residents will choose on a first come first serve basis;
- A cash payment of $8,000 to $4,000 will be paid upon their departure as long as all other terms have been complied with, the payment amount will decrease each quarter;
- All residents will be required to pay a monthly amount equal to their current rent;
- All owners are responsible for the removal of their units but economically qualified owners will receive financial assistance (i.e. household income at or below 80% of area median income);
- Tenants that are non-owner occupants may receive additional time but no cash upon signing a separate settlement agreement;
- No new tenants will be allowed onto the property.

If an individual chooses not to sign a settlement, the City has no legal alternative than to initiate legal proceedings for their removal on November 24, 2003.

Once the transition plan has been implemented, it is anticipated that the future potential land uses for the site will be determined through an extensive public process. The Mission Bay Master Plan Update identifies this site as a "special study area" and staff will return with a scope of work within the next 24 months to address this planning process.

Park Operations

In order to ensure a smooth transition when DHRG leaves the property, City staff contacted, interviewed and received information and bids from several companies with relevant property management experience. Management and consulting experience operating properties in transition was the primary consideration in selecting a company. Hawkeye Asset Management has the most-extensive and relevant experience in the needed fields. Hawkeye will provide a broad scope of services in addition to interim property management, including managing and accounting for all funds through a segregated "agency account" as required by state law as well as documenting and facilitating all settlements. Hawkeye has been retained to provide these services under a short-term contract. Once all settlements have been signed and a budget has been established, City staff will return to Council for authorization to enter into a more permanent and comprehensive contract.

Transition Plan Funding

All residents that sign a settlement will be required to pay a monthly amount that is equal to their current rent with no increases during the transition period. This revenue stream may be sufficient to fund the transition plan. However, the City will be providing financial assistance to economically qualified residents for the removal and/or demolition of their units. The number of economically qualified residents is unknown at this point. Because the overall fiscal outlook for the entire transition period is uncertain until all settlements are signed, the City must identify a funding source as a backstop. The Mayor and Council have directed staff to seek authorization to utilize the Fiesta Island Sludge Mitigation Funds as this backstop. Of all funding sources within the City, this fund has the closest nexus, as the objective is to return De Anza to a legal park and recreation use, thereby providing enhanced coastal access and recreational opportunities to the public. Use of these funds will require approval by the California Coastal Commission staff. This approval process is underway but until it is finalized, City staff has worked closely with San Diego Housing Commission staff to identify $2 million as additional funding. This amount will be sufficient to provide a funding backstop until Coastal Commission staff approval can be obtained. There is also a nexus to affordable housing as many of the existing residents may income qualify for assistance. In order to utilize the Housing Commission funds, Council appropriation and authorization to expend the funds is required, as is Housing Authority action (see comparison item). Staff is seeking approval for this action as well as authorization for the Manager to determine the appropriate funding source.

ALTERNATIVES

1. Do not make the findings related to the end of permanent residential use at De Anza.

2. Do not authorize the Manager to charge and collect fees pursuant to the fee schedule and expend funds for the operation of the Mission Bay Golf Course.

3. Do not authorize the appropriation of $2 million from the San Diego Housing Commission to implement the transition plan, do not authorize the Auditor and Comptroller establish funds as may be required, do not authorize expenditures from the fund as necessary, do not authorize the City Manager to enter into an agreement with the Housing Commission for this purpose and do not authorize the City Manager to determine the appropriate funding source.

Respectfully Submitted,

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William T. Griffith	Approved: Bruce A. Herring
Real Estate Assets Director	Deputy City Manager

Attachment: Fee Schedule