



THE CITY OF SAN DIEGO
MANAGER'S REPORT

DATE ISSUED: November 13, 2003 REPORT NO. 03-231

ATTENTION: Honorable Mayor and City Council
Docket of November 17, 2003

SUBJECT: Waiver of City Fees Associated with City of San Diego 2003 Firestorm
Damage

REFERENCE: Item S401 from November 3, 2003 Supplemental Docket Number 2

SUMMARY

Issue: Should the City Council waive building permit, demolition permit, waste disposal fees, and reimburse concrete and brick recycling costs associated with the reconstruction of property damaged in the 2003 firestorm within the City of San Diego?

Manager's Recommendations:

- A. Waive demolition permit fees, waste disposal fees, and reimburse the cost paid to acceptable recycling facilities for recycling concrete slabs and bricks associated with the demolition of fire damaged or destroyed building property within the City of San Diego. Waive building permit fees for the replacement of those buildings as described in the attached draft resolution that the City Council directed be prepared.
- B. Designate fire reconstruction permit applications resulting from the 2003 firestorm to be the highest priority for expedited development review of building permits in the City of San Diego.

Other Recommendations: None.

Fiscal Impact: It is estimated that the combined cost of waiving building and demolition permit fees, waste disposal fees and reimbursing concrete and brick recycling costs totals \$2.5 million. The impact by fiscal year will be \$1,950,000 in FY 2004 and \$550,000 in FY 2005.

This waiver of fees for services will require that the General Fund reimburse the impacted Development Services Enterprise Funds, and the Environmental Services Refuse Disposal and Recycling Enterprise Funds by an estimated \$1.0 million, \$600,000 and \$600,000 respectively. Also, fee waivers will result in forgoing additional General Fund revenue of \$300,000 in Solid Waste Collection Franchise Fees. The additional cost to the General Fund may result in further reductions in General Fund services for FY 2004 and FY 2005.

As a temporary placeholder for 2004, \$1.95 million of the Trolley Transient Occupancy Tax Revenue Stabilization Reserve will be set aside until a permanent funding source can be identified.

The waste disposal fee fiscal impact includes the disposal of only above slab, soft debris and assumes that concrete slabs and bricks will be recycled. In order to demonstrate good faith efforts to comply with State waste diversion mandates, this proposal is to reimburse the recycling cost paid to acceptable recycling facilities for the recycling of these building materials at an estimated cost of between \$200,000 to \$400,000. Some State and County fees which are charged on a per ton basis will still be incurred and will have to be paid from the Refuse Disposal Fund.

The FY 2005 Proposed Budget will reflect either an increase in contract services or up to 3.00 additional temporary positions to meet the anticipated increase in building inspection services due to the reconstruction of fire destroyed buildings. Plan check services will be provided by current staff overtime and existing contract services this fiscal year.

BACKGROUND

The recent 2003 firestorm resulted in significant property destruction and damage within the City of San Diego. In the Scripps Ranch and Tierrasanta neighborhoods, 327 homes were destroyed and another 61 homes sustained fire damage. Additionally, fifteen commercial structures were destroyed and one commercial structure was damaged by the fire.

At the City Council meeting of November 3, 2003, the City Manager and City Attorney were directed to prepare a draft Council resolution to waive demolition permit fees and waste disposal fees or recycled building material costs associated with the demolition of fire damaged or destroyed building property within the City of San Diego. Furthermore, the draft resolution will waive building permit fees for the replacement of those buildings. The resolution implements this policy direction and is attached to this report for the City Council's consideration and action on November 17, 2003. Additionally, the City Council asked the staff to respond to several related questions:

- What are the estimated cost figures for waiving fees?
- What funding source can be identified as a source for the fee waivers?
- Are there any funds available at the state or federal level to cover the cost of the fee waivers?
- Is there a cost-effective way to provide building permit, demolition permit and waste disposal fee waivers to underinsured homeowners only?

- How will Development Services shift priorities to provide the highest expedite priority for fire reconstruction building permits and demolition permits? What will be the timeline for accomplishing this?

DISCUSSION

Building Permit and Demolition Permit Fees:

The attached resolution provides for the waiving of demolition permit fees, waste disposal fees, and reimbursement of recycling costs associated with the demolition of fire damaged or destroyed building property within the City of San Diego. It also waives building permit fees for the replacement of those buildings. This includes residential and some commercial structures with fire damage. Development impact fees, water and sewer connection fees, and capacity fees will not be charged for new structures replacing those destroyed in the fire because there are no new development impacts to the community and reconstructed buildings can use their existing water and sewer connection. The draft fee waiver does not include fees for the expansion of structures over that which was destroyed or damaged by fire. Fire reconstruction related demolition permits are being administered as a no-charge administrative process.

Waste Disposal Fees:

Unless otherwise directed by the City Council, this waiver at Miramar Landfill will only apply to fire-related debris, except for concrete slabs and bricks, generated in the City of San Diego during the demolition phase.

Given the expected volume of concrete slab and brick debris (up to an estimated 125 tons/home), recycling of these materials should be implemented in conjunction with any fee waiver at Miramar Landfill. Currently, it is common practice in the industry to recycle these materials at privately operated facilities. Waiving the tipping fee at Miramar Landfill will reduce the incentive for haulers to recycle brick and concrete slabs at either of two local recycling facilities at a cost of approximately \$5 to \$10 per ton. In order to demonstrate good faith efforts to comply with State waste diversion mandates, the City will reimburse the cost paid at facilities to recycle these materials and not allow the material to be disposed of in the City's landfill.

The proposed disposal fee waivers and reimbursement of the cost to recycle concrete slabs and bricks at applicable recycling facilities, will only apply to fire damaged or destroyed building property within the City of San Diego. To ensure proper fee waivers and reimbursements a process will be developed and implemented to audit and verify appropriate tonnage and residential status within the City of San Diego for all fire-related debris brought to the Miramar Landfill and recycling facilities. The cost to recycle these materials is estimated to range from \$200,000 to \$400,000.

Recycling of these materials must occur in order for the City to continue to demonstrate a good faith effort to achieve state waste diversion mandates and avoid penalties for non-compliance. State mandates require the City to divert 50% of the waste generated in the City from Miramar Landfill by December 31, 2004. Currently, the City's diversion rate is 44%. At the present rate of generation, an additional 198,000 tons of annual diversion are needed to meet our goal. If the 50% diversion is not reached, the City faces fines of up to \$10,000 per day. Consequently, the City should encourage the diversion of recyclable wastes to the maximum extent possible. It is recommended that the City reimburse the recycling cost as the most cost effective way to

accomplish this portion of the fee waiver proposal. The resolution and the staff recommendation are to reimburse building owners for the fees paid to a recycling facility acceptable to the City to recycle concrete slabs and bricks.

What are the estimated cost figures for waiving fees?

Building Permit and Demolition Permit Fees:

The estimated cost to waive all fire reconstruction building permits and building demolition permits for 327 destroyed homes, 61 damaged homes, 15 commercial structures destroyed and one commercial structure damaged is estimated to be \$450,000 in FY 2004 and \$550,000 in FY 2005 for a total of \$1.0 million.

The replacement of destroyed homes with an equivalent structure will not require any discretionary permits. New homes that exceed the equivalency of the previous structure (e.g. substantial increase in floor area, replacement of previous single story structure with a multi-story structure) would be considered new construction and, in some cases, could trigger the need for a discretionary permit. Fees for expansion of homes beyond what were destroyed and any discretionary permits associated with those projects are not included in the fee waiver.

Waste Disposal Fees:

Based on the demolition of only a few homes, it is estimated that 75 tons per home of above slab, fire-related debris from each destroyed and damaged home in the City of San Diego will generate approximately 26,000 tons of waste. Using a median disposal fee of \$42 per ton translates to approximately \$1.1 million in total disposal fees for fire-related debris tonnage disposed of at the Miramar Landfill. Above slab, fire-related debris does not include chimneys, recyclable metals, or concrete slabs which are recyclable.

Based on the demolition of a few concrete slabs and chimneys, it is estimated that 125 tons of these materials per home will generate about 40,000 tons at a tip fee cost at local recycling facilities of between \$200,000 and \$400,000. These materials can be recycled at one of several facilities listed on Environmental Services Department's, Construction, Demolition and Yard Waste Recycling Guide 2003.

What funding source can be identified as a source for the fee waivers?

Waiving the building and waste disposal fees requires reimbursement by the General Fund or other source. The Development Services building permit fee and Environmental Services refuse disposal fees are Enterprise Fund fees. Development Services Department is an Enterprise Fund, financed and operated by development fees in accordance with Government Code sections 66000 through 66025. The Refuse Disposal and Recycling Enterprise Funds have been established to provide for specific services funded directly by fees to users limited by San Diego Municipal Code section 66.0127(c)(4) and Government Code section 66016. Payment of fees by some users cannot be used to subsidize services provided to other users.

In Fiscal Year 2004, the General Fund has already incurred substantial unanticipated revenue shortfalls and unbudgeted expenses. The State of California is withholding an estimated \$12.6 million in Motor Vehicle License Fee backfill, a fact that was not known at the time the Fiscal Year 2004 Budget was developed. An ongoing hiring freeze, as well as a curb on discretionary spending, will partially mitigate the State revenue reduction. Additionally, based

on preliminary estimates, the City may incur additional non-reimbursable expenses for public safety activities related to the various fires throughout the region.

The waiver of these permit and waste disposal fees to residents affected by the fire may impact the General Fund's already difficult financial standing. Providing the \$1.95 million in Fiscal Year 2004 General Fund monies to reimburse the Enterprise Fund's waiver of fees would necessitate additional service reductions in General Fund departments or the identification of an additional revenue source. The City will temporarily set aside \$1.95 million of the Trolley Transient Occupancy Tax Revenue Stabilization Reserve for this purpose until another solution is identified. The City Manager will work with the Auditor and Comptroller to explore additional funding sources including the Community Development Block Grants.

Are there any funds available at the state or federal level to cover the cost of the fee waivers?

State and federal funding to pay for the building permits, demolition permits or waste disposal fees associated with fire reconstruction is unlikely. However, the Governmental Relations Department and the City's federal government consultants are exploring all possible federal funding opportunities and an update of their efforts will be provided at the City Council meeting on November 17, 2003.

Is there a cost-effective way to provide building permit, demolition permit and waste disposal fee waivers to underinsured homeowners only?

The most cost-effective way to waive fees for underinsured homeowners is to have all homeowners initially pay the cost of the building permit or waste disposal fees with their homeowner insurance coverage. If the homeowner at some point exceeds their insurance coverage limit for dwelling replacement or damage, any building permit or waste disposal permit fees could be refunded up to the full amount of the City fees paid as long as insurance did not cover these costs. If it is the City Council's intent to implement this option, then revisions to the attached resolution would be required. A conditional fee waiver or refund provision would need to be added to the resolution.

To receive the waiver or refund, the homeowner would need to provide a letter from the homeowner's insurance company verifying that the homeowner had been paid the maximum insurance coverage limit by the insurance company for building structure replacement or damage. The homeowner would need to submit an affidavit certifying the total amount of the expense they had incurred to replace their home that was not covered by their insurance. This could be a cumbersome process. This would require several hours of the homeowner's time and staff time to process these requests. This would also require the homeowner to pay for these costs up front. The fiscal impact to the General Fund is difficult to accurately determine but it is estimated that from 25% to 50% of the affected homeowners might be eligible for this waiver or refund. This action could potentially reduce the expense to the General Fund from an estimated \$2.5 million down to between \$625,000 and \$1.25 million.

The homeowner's maximum insurance coverage limit would be based only on the dwelling portion of the homeowner's insurance coverage effective on October 24, 2003 and would not include personal property coverage or personal liability coverage that are other types of insurance coverages that are also typically included in a home insurance policy.

Whether or not a homeowner will be reimbursed by their insurance for permit fees to rebuild their home due to the fire will vary depending on their individual insurance policy.

There are two different types of policies, “actual cash value” and “replacement cost value.” An actual cash value policy will not completely pay for replacing a home if it is destroyed. According to the California Department of Insurance, only a small number of these exist today. It is unknown at this time if any homeowners affected by the fire are uninsured. Typically, if there is a mortgage on a home, then some type of insurance policy is required by the lender.

Actual cash value is the fair market value a knowledgeable, willing buyer would pay and that a knowledgeable, willing seller would take for the dwelling structure today. An actual cash value policy pays the amount for the depreciated current market value of the dwelling structure. The difference between the true cost to rebuild the same dwelling structure today and the calculated depreciated value of the dwelling structure before it was destroyed would be the responsibility of the homeowner to pay. Most of these policies include the permit fees within the cost to rebuild the house, so it would be depreciated as well.

If a homeowner has a replacement cost policy, the chances that they will be able to completely rebuild their home are better, but there are many types of replacement cost policies. Some do not have building code upgrade coverage, so an insurance company might not pay for changes needed to bring the building up to the current building codes. Replacement cost is the dollar amount needed to replace a damaged item with one of a similar kind and quality without deducting for depreciation - the decrease in value due to age, wear and tear, and other factors. All home insurance policies pay for building permit, demolition permit and waste disposal fees subject to the limits of the individual home insurance policy.

Even homeowners with replacement value policies may end up underinsured. For example, a replacement value home insurance policy without an annual inflation factor increase could, after several years, result in an underinsured home insurance policy holder.

How will Development Services shift priorities to provide the highest expedite priority for fire reconstruction building permits and demolition permits? What will be the timeline for accomplishing this?

It is recommended that fire reconstruction building permits and demolition permits related to reconstruction after the 2003 firestorm be the number one development review expedite priority in the City. While plan check and inspection service levels have been affected since the firestorm, plan check and inspection services are expected to return to their previous levels of service by the end of November. The department plans to maintain service levels to other expedite priorities such as affordable housing by utilizing a combination of overtime, contract services and temporary positions.

A fire reconstruction development review and permitting team is being formed in Development Services to expedite and address the unique requirements of processing fire reconstruction development projects.

The current planned Development Services staffing increases and annual plan check contract services will meet the increased temporary demand for plan check services resulting from the 2003 firestorm. It is anticipated that the number of residential building inspections will increase

by 14% starting in Fiscal Year 2005 as a result of the fire reconstruction projects that will be ready to start construction. To meet the anticipated future building inspection demand, Development Services plans to utilize overtime, contract services or temporary positions which will be added to its 2005 Proposed Budget .

CONCLUSION

The passage of the attached resolution will provide all building owners who were affected by the 2003 firestorm fee waivers for building and demolition permits needed to rebuild or repair buildings. It will provide a fee waiver for waste disposal fees and reimbursement for the fees paid to an acceptable recycling facility to recycle concrete slabs and bricks associated with the demolition of building properties that were destroyed or damaged.

This proposal will include those homeowners that have already expended funds for these fees. These fees will be refunded consistent with this City Council action. Passage of this draft resolution will implement City Council direction to the City Manager on this matter.

Our goal will be to administer this program so that the homeowner or building owner directly benefits from this assistance in their rebuilding process. Based on City Council approval, staff will work closely with the Homeowners Associations of each affected community to ensure that this goal is met.

ALTERNATIVE

Do not waive fees and reimburse recycling costs for all owners of fire destroyed or damaged structures but instead waive fees only for homeowners who are uninsured or underinsured. This will require an amendment to the attached resolution to provide fee waivers or refunds only if certain conditions are met as outlined in this report.

Respectfully submitted,

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TPC/NAB