

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, DECEMBER 4, 2007  
AT 9:00 A.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Council President Peters at 10:06 a.m. The meeting was recessed by Council President Peters at 12:02 p.m.

The meeting was reconvened by Council President Peters at 2:05 p.m. with Council Member Maienschein not present. Council President Peters recessed the meeting at 4:49 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:54 p.m. with Council Member Maienschein not present. Council President Peters recessed the meeting at 4:56 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 4:57 p.m. with Council Member Maienschein not present. Council President Peters recessed the meeting at 5:34 p.m. to reconvene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 5:35 p.m. with Council Member Maienschein not present. Council President Peters recessed the regular meeting at 6:16 p.m. to reconvene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 6:25 p.m. with Council Member Maienschein not present. Council President Peters recessed the regular meeting at 7:00 p.m. to reconvene the Redevelopment Agency and thereafter the Housing Authority. Council President Peters reconvened the regular meeting at 7:25 p.m. with Council Member Maienschein not present. The meeting was adjourned by Council President Peters at 7:28 p.m.

ATTENDANCE DURING THE MEETING:

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

FILE LOCATION: MINUTES



ITEM-300: ROLL CALL

Clerk Maland called the roll:

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

FILE LOCATION: MINUTES

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-2:

Linda Smith commented on capitalism in society.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-3:

Hud Collins commented on the pension, financial crisis and the war.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:12 a.m. - 11:16 a.m.)

PUBLIC COMMENT-4:

Al Strohlein commented on his meeting with City Attorney, Michael Aguirre.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:16 a.m. - 11:20 a.m.)



**PUBLIC COMMENT-5:       REFERRED TO THE PUBLIC SAFETY AND  
                                  NEIGHBORHOOD SERVICES COMMITTEE**

Chip Mc Allister commented and presented a news clip on smoke shops.

FILE LOCATION:           AGENDA

COUNCIL ACTION:       (Time duration: 11:20 a.m. - 11:22 a.m.)

**PUBLIC COMMENT-6:**

Matt Witman commented on extending leases for fire damaged areas in the San Pasqual Valley.

FILE LOCATION:           AGENDA

COUNCIL ACTION:       (Time duration: 11:23 a.m. - 11:24 a.m.)

**PUBLIC COMMENT-7:**

Izean Rim commented on public safety.

FILE LOCATION:           AGENDA

COUNCIL ACTION:       (Time duration: 11:24 a.m. - 11:25 a.m.)

**PUBLIC COMMENT-8:**

Dr. Oliver Luck commented on the fires, volunteers, and on the City of San Diego.

FILE LOCATION:           AGENDA

COUNCIL ACTION:       (Time duration: 11:25 a.m. - 11:29 a.m.)

PUBLIC COMMENT-9:

Phil Hart commented on the use of the fires for public exposure for political use.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:29 a.m. - 11:33 a.m.)

PUBLIC COMMENT-10:

Ron Boshun commented on Council actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:33 a.m. - 11:36 a.m.)

PUBLIC COMMENT-11:

Jarvis Ross commented on other cities that have adopted the strong Mayor form of government.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:36 a.m. - 11:39 a.m.)

PUBLIC COMMENT-12:

Clive Richard commented on the unlawful delegation of appropriations of Transient Occupancy Tax funds.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-13:

Elinor Rector commented on the holiday season.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:42 a.m. - 11:45 a.m.)

PUBLIC COMMENT-14:

Helena Finkel commented on City assistance to provide water fountains and clean bathrooms for the general public.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:45 a.m. - 11:47 a.m.)

PUBLIC COMMENT-15:

David Ross commented on shelters and utilities for homeless veterans.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:47 a.m. - 11:51 a.m.)

PUBLIC COMMENT-16:

Justin Howard commented on unfair practices in the pedi cab industry.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:51 a.m. - 11:54 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Hueso commented on the Transportation Committee lead by Council Member Madaffer and the Mayor's Office seeking funds from the State Assembly for infrastructure improvements in the Barrio Logan, Otay Mesa, and San Ysidro areas.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:34 a.m. - 10:36 a.m.)

COUNCIL COMMENT-2:

Council Member Atkins invited the public to attend the annual December Nights celebration in Balboa Park and to the Toyland Parade in North Park this weekend.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:36 a.m. - 10:38 a.m.)

COUNCIL COMMENT-3:

Council President Pro Tem Young announced there will be live music at the 62<sup>nd</sup> or the Market and Euclid trolley stations provided by the Metropolitan Transit System, Jacobs Foundation and his office.

FILE LOCATION: MINUTES

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

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.



[ITEM-30:](#) Al Pavich Day.

**MAYOR SANDERS', COUNCILMEMBER FAULCONER'S, AND  
COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-429) ADOPTED AS RESOLUTION R-303228

Proclaiming December 4, 2007, to be "Al Pavich Day" in the City of San Diego and thanking him for his leadership and service to the community.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:05 a.m. - 10:14 a.m.)

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



[ITEM-31](#): Rod Luck Day.

**COUNCILMEMBER MAIENSCHEIN'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-427) ADOPTED AS RESOLUTION R-303229

Proclaiming December 4, 2007, to be "Rod Luck Day" in the City of San Diego in recognition of the many community services he has provided to the citizens of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:14 a.m. - 10:26 a.m.)

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



[ITEM-32:](#) Raylin Cloggers Day.

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

Adopt the following resolution:

(R-2008-420)            ADOPTED AS RESOLUTION R-303230

Proclaiming December 4, 2007, to be "Raylin Cloggers Day" in the City of San Diego and commending the Raylin Cloggers.

FILE LOCATION:            AGENDA

COUNCIL ACTION:            (Time duration: 10:26 a.m. - 10:32 a.m.)

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



ITEM-33: Reconsideration of the vote taken on Monday, October 29, 2007,  
Authorizing AKT Certified Public Accountants, LLP Amendment No. 1 for Pay  
for Performance and Bid to Goal Programs.

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Take the following actions:

Subitem-A: WAIVED

Waiving the Permanent Rules of the City Council, Section 22.0101.5 of the San  
Diego Municipal Code.

**NOTE:** 6 votes required.

Subitem-B: RECONSIDERED

Reconsidering the vote taken on Monday, October 29, 2007, Item 151,  
authorizing AKT Certified Publish Accountants, LLP, Amendment No. 1 for Pay  
for Performance and Bid To Goal Programs.





- \* ITEM-50: Amending the San Diego Municipal Code to Make Corrections to the San Diego Tourism Marketing District Procedural Ordinance.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 11/20/2007, Item 336. (Council voted 5-2. Council President Pro Tem Young and Councilmember Frye voted nay. Councilmember Maienschein not present):

(O-2008-36 Rev.) ADOPTED AS ORDINANCE O-19691 (NEW SERIES)

Amending Chapter 6, Article 1, Division 25, of the San Diego Municipal Code, to make corrections to the San Diego Tourism Marketing District Procedural Ordinance, by amending Sections 61.2504, 61.2506, 61.2507, 61.2508, 61.2510, 61.2512, 61.2515, 61.2516, 61.2518, 61.2519, 61.2520, 61.2522, 61.2523 and repealing Section 61.2511, all relating to procedures for establishing a Tourism Marketing District.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

- \* ITEM-51: Fourth Amendment to the Agreement with Boyle Engineering Corporation for La Jolla Village Drive/Interstate 805 and Miramar Road Widening Projects. (University Community Area. Districts 1, 5, and 7.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 11/13/2007, Item 55. (Council voted 8-0):

(O-2008-64)                      ADOPTED AS ORDINANCE O-19692 (NEW SERIES)

Authorizing the Mayor to execute, for and on behalf of the City of San Diego, an Agreement with Boyle Engineering Corporation, for professional engineering services for the La Jolla Village Drive/Interstate 805, CIP-52-485.0 and Miramar Road Widening, CIP-52-679.0, in the amount of \$383,091, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$239,177 from CIP-52-485.0, La Jolla Village Drive/Interstate 805, Fund No. 79001, Facilities Benefit Assessment Fund, and an amount not to exceed \$143,914 from CIP-52-679.0, Miramar Road Widening, Fund No. 79001, Facilities Benefit Assessment Fund, for the purpose of executing this Fourth Amendment to the Agreement for the above referenced Project;

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

Declaring that this activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Sections 15061(c)(3). This determination is predicated on Section 15004 of the Guidelines, which provides direction to lead agencies on the appropriate timing for environmental review. Construction activities related to this action will be subject to review under the provisions of CEQA.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-52: Professional Services Contracts for San Diego County Water Authority Emergency Storage Project. (Citywide.)

(See Water Department's Executive Summary Sheet dated 9/17/2007; and Water Department's 9/26/2007 PowerPoint.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 11/20/2007, Item 55. (Council voted 8-0):

(O-2008-66) ADOPTED AS ORDINANCE O-19693 (NEW SERIES)

Amending an Ordinance authorizing the expenditure of an amount not to exceed \$148,500 from Water Fund 41500 for contracted professional consulting services, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer; and

Authorizing the Mayor, or his designee, to execute one consultant agreement with Martin Dense, for consulting services for the San Diego County Water Authority Emergency Storage Project in an amount not to exceed \$49,500 (Dense Agreement);

Authorizing the Mayor, or his designee, to execute one consultant agreement with Donald H. Babbitt for consulting services for the San Diego County Water Authority Emergency Storage Project in an amount not to exceed \$49,500 (Babbitt Agreement);

Authorizing the Mayor, or his designee, to execute one consultant agreement with John S. Gregg for consulting services for the San Diego County Water Authority Emergency Storage Project in an amount not to exceed \$49,500 (Gregg Agreement);

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

Finding that this activity is not a project for purposes of review under the California Environmental Quality Act (CEQA), per CEQA Guidelines Section 15060(c)(2).

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-53: Amendment No. 1 to the Agreement with RBF Consulting for South Mission Valley Trunk Sewer. (Mission Valley Community Area. District 6.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 11/20/2007, Item 54. (Council voted 8-0):

(O-2008-50) CONTINUED TO TUESDAY, JANUARY 8, 2008

Authorizing the Mayor, or his designee, to execute the First Amendment to the Agreement with RBF Consulting for additional engineering consulting services for the Project in an additional amount not to exceed \$394,148 for a total contract amount of \$1,467,119, provided that the City Auditor and Comptroller first furnishes a certificate certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to transfer \$720,000 from CIP-40-928.0 South Pacific Highway Trunk Sewer to CIP-40-931.0, South Mission Valley Trunk Sewer within Fund 41506, Sewer;

Authorizing the additional expenditure of \$394,148 from CIP-40-928.0 South Mission Valley Trunk Sewer project, Fund No. 41506 Sewer Fund, for RBF Consulting for the design and planning for the updates on the Project;

Authorizing the expenditure of \$1,190,000 from CIP-40-931.0, South Mission Valley Trunk Sewer, Fund 41506 Sewer, for the purpose of executing this First Amendment in the amount not to exceed \$394,148, and for in-house engineering and related costs in the amount not to exceed \$795,852;

Declaring that this activity is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15060(c)(2) because this activity will not result in direct or reasonably foreseeable indirect physical change in the environment;

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

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:54 a.m. – 10:55 a.m.)

MOTION BY ATKINS TO CONTINUE TO TUESDAY, JANUARY 8, 2008, FOR FURTHER REVIEW. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-54: Construction and Demolition (C&D) Debris Diversion Deposit Ordinance Implementation.

(See Report to the City Council No. 07-169 [not available at Committee]; Independent Budget Analyst Report No. 07-101; and Environmental Services Department's 11/2/2007, PowerPoint.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 11/20/2007, Item 335, Subitem A. (Council voted 8-0):

(O-2008-47)                      ADOPTED AS ORDINANCE O-19694 (NEW SERIES)

Amending Chapter 6, Article 6, Division 6, of the San Diego Municipal Code by amending Sections 66.0601, 66.0602, 66.0604, 66.0606, 66.0607, and 66.0608, all relating to Diversion of Construction and Demolition Debris. This ordinance amends the Construction and Demolition Debris Diversion Deposit Program. Pursuant to the amendments, deposits will be required beginning 45 days after notice that a certified recycling facility is operating within 25 miles of downtown San Diego at a 50% diversion rate or by July 1, 2008, whichever is later. Recycling facility certification guidelines may be appealed to the Mayor or designee. Deposits would be paid at the time a building permit or a demolition/removal permit is issued. The minimum deposit would be increased to \$200.

FILE LOCATION:                      MEET

COUNCIL ACTION:                      (Time duration: 11:54 a.m. – 11:59 a.m.)

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





**ITEM-55:** Amending the San Diego Municipal Code Relating to Fire Sprinkler Retrofitting for High Rise Building. (Centre City Community Area. District 2.)

**STAFF'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2008-71 Rev.)      **INTRODUCED AS AMENDED; TO BE  
ADOPTED TUESDAY, JANUARY 8, 2008**

Introduction of an Ordinance amending Chapter 5, Article 5, Division 10, of the San Diego Municipal Code by amending Section 55.1003, pertaining to Fire Protection and Prevention, to extend the required compliance date for sprinkler retrofits of high rise buildings to January 1, 2013.

**STAFF SUPPORTING INFORMATION:**

In 1986, the Mayor and City council passed Ordinance Number O-17172 requiring fire sprinkler retrofitting for high rise buildings. Specific exemptions were granted including all Government buildings except for those owned by the City of San Diego. In 1991, the Council extended the deadline for compliance from 1996 to 1999, unless the owner declared their intent to demolish the building by January 1, 2000. In 1995, the City passed resolution number R-286760 declaring the City's intent to demolish the City Administration Building (CAB) prior to January 1, 2000. In 1999, the City of San Diego completed the first phase of the fire sprinkler upgrade at CAB demonstrating the upgrade could be accomplished for significantly less than previously thought.

On June 5, 2001, Ordinance Number O-18946 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofit Ordinance until January 1, 2004. In addition, the City Council authorized a phase funded design build contract to continue with the installation of a fire sprinkler system. Phases III and IV were completed, but funding for the final phase was not identified.

On January 13, 2004, Ordinance Number O-19254 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofitting Ordinance until January 1, 2008.

The current Fire Sprinkler system includes the: backflow valve, pump, transfer switches, standpipe, alarm system, and sprinklers in the basement and on the 10<sup>th</sup>, 11<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup> floors. Remaining work includes the: emergency backup generator, additional upgrades to the alarm system, and fire sprinklers in all the elevator lobbies and on the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, and 12<sup>th</sup> floors. The cost of this work is estimated to be in excess of \$5,000,000.

On July 31, 2007, CCDC issued a request for qualifications to redevelop the Civic Center Complex. Should the redevelopment of the Civic Center Complex proceed, completion of the fire sprinkler system in CAB would not be necessary. Should the proposed redevelopment of the Civic Center Complex not take place, the completion of the final phase of the sprinkler system project would need to be completed. Extending the deadline for compliance with the Fire Protection and Prevention Ordinance to 2013 will allow time for the Mayor evaluate the future plans for CAB and identify the necessary funding and complete the fire sprinkler upgrades if needed.

FISCAL CONSIDERATIONS:

No funding is currently identified.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

- 1986, the Mayor and City Council passed Ordinance Number O-17172 requiring fire sprinkler retrofitting for high rise buildings.
- 1991, the Mayor and City Council extended the deadline for compliance from 1996 to 1999 \$1,200,000 appropriation for the South Course Renovation through the FY 2006 budget process.
- 2001, Ordinance Number O-18946 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofit Ordinance until January 1, 2004.
- 2004, Ordinance Number O-19254 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofitting Ordinance until January 1, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The City of San Diego's City Administration Building is one of the few remaining high rise building without complete fire sprinkler protection in the City of San Diego.

Jarrell/Haas

Staff: Darren Greenhalgh - (619) 533-6600  
Rachel Lipsky - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 6:41 p.m. - 6:58 p.m.)

MOTION BY FAULCONER TO INTRODUCE WITH THE AMENDMENT TO EXTEND THE REQUIRED COMPLIANCE DATE FOR ONE YEAR; ASK THE INDEPENDENT BUDGET ANALYST AND MAYOR WHERE THE MONEY WOULD COME FROM IF COUNCIL DECIDES TO INSTALL THE SPRINKLERS; PROVIDE THE INFORMATION AS PART OF THE BUDGET DISCUSSION. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-not present, Frye-yea, Madaffer-not present, Hueso-yea.



ITEM-56: First Amendment to the Agreement with Tetra Tech, Inc. for the State Route 15 Bikeway Project. (Mid-City Community Area. District 3.)

**STAFF'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2008-62) INTRODUCED WITH DIRECTION; TO BE  
ADOPTED ON TUESDAY, JANUARY 8, 2008

Introduction of an Ordinance authorizing the Mayor to execute, for and on behalf of the City, an Agreement with Tetra Tech, Inc. (Agreement), for consultant services contract for preliminary engineering for CIP-58-127.0, State Route 15

Bikeway, in amount not to exceed \$53,403, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$53,403 from CIP-58-127.0, State Route 15 Bikeway, Fund No. 30301, TransNet Bikeway, for the purpose of executing the First Amendment to the Agreement for the above referenced Project;

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

Declaring that this activity is not a "project" and is therefore exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

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

**STAFF SUPPORTING INFORMATION:**

The existing contract includes preliminary engineering services for the State Route 15 Bikeway project. The contract called for geometric and engineering design of the bike path along State Route 15's alignment from Landis Avenue northerly to Camino Del Rio South in Mission Valley. The project scope is to design and construct Class II and Class III (on-street bike lanes) facilities from Landis Street to Adams Avenue, and a separate Class I bike facility adjacent to the freeway shoulder from Adams Avenue to Camino Del Rio South. Several alternatives were designed, each with challenges from the existing topography and freeway facilities, which were constructed during the State Route 15 widening/improvement project by Caltrans.

The number of design alternatives and design feature scope changes requested by Caltrans, the Bicycle user community, and community groups exceeds the scope in the original contract. This amendment includes the costs of the additional design alternatives: designs, reviews, and analysis, to finish the final design contract documents. The actual construction of the Class I facility from Adams Avenue to Camino Del Rio South has been removed from this CIP project scope, and will be incorporated into Caltrans' plans when they widen the freeway to provide HOV facilities.

FISCAL CONSIDERATIONS:

Funding for this action: \$53,403, is currently available in Fund 30301, TransNet Bikeway, CIP-58-127.0 and State Route 15 Bikeway. With this action total consultant contract will be increased to \$422,704.

PREVIOUS COUNCIL ACTIONS:

The original contract with Tetra Tech, Inc. was executed in November 2001 (RR-295738).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Bikeway alternative alignments and design elements have been presented to local community groups and the San Diego County Bicycle Coalition several times for feedback.

STAKEHOLDERS:

Tetra Tech, Inc.

Boekamp/Haas

Aud. Cert. 2800272.

Staff: Frank Gaines - (619) 533-3771  
Peter A. Mesich - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 4:40 p.m. - 4:41 p.m.)

MOTION BY ATKINS TO INTRODUCE WITH DIRECTION TO STAFF TO HAVE A DISCUSSION WITH THE WORKING GROUP IN THE DECEMBER/JANUARY TIME FRAME. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-57: Maintenance Agreement with California State Coastal Conservancy and Los Peñasquitos Lagoon Foundation for a Sediment Control Basin in Los Peñasquitos Canyon. (Los Peñasquitos Canyon Preserve. District 1.)

**STAFF'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2008-75)                      RETURNED TO MAYOR

Introduction of an Ordinance authorizing the Mayor to execute, for and on behalf of the City, a Maintenance 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 CEQA Guidelines Section 15060(c)(3).

**STAFF SUPPORTING INFORMATION:**

Presently the Los Peñasquitos open channel conveys naturally occurring flow through Park and Recreation Open Space Land. At present the sedimentation projected to be trapped by the proposed Los Peñasquitos Sediment Basin (SB) is predominately removed from the downstream Sorrento Creek reach, which is not on Park and Recreation Open Space but rather part of the City's open channel drainage system.

General Services, Street Division typically performs open channel maintenance as part of its General Fund mission. General Services, Street Division prioritizes channel cleaning on an annual basis dependant on a number of variables including but not limited to: capacity of channel, prior year's deposits, risk of flows exceeding channel limits, impacts to community, vegetation accumulation, environmental impacts, permitting (Federal, State, local), economies of scale, cost benefit, and available funding.

The last removal of sediment from the Sorrento Creek reach was completed by Street Division in November 2003. Street Division is presently permitted and required to study the Sorrento Creek and remove sediment deposits based upon permit requirements. Street division monitors the reach and as sedimentation builds, prioritizes the sedimentation removal with other critical channels in the City and as funding and permitting allow removes the deposited material.

LPLF has requested the City enter into a maintenance agreement for the proposed constructed sedimentation basin. This agreement is included as attachment A. Maintenance includes sedimentation removal, vegetation removal, trash removal, maintenance and repair of structures (brow ditch and related appurtenances). The assumption by LPLF and agreed upon by General Services is that the material trapped at the SB would naturally migrate to the Sorrento Creek reach and would require removal by Street Division.

In addition, the LPLF has proposed that removal of the material from the SB vice Sorrento Creek reach shows a cost benefit to the City. General Services independent estimate considered maximum sediment deposition, past historical removal costs, methods of construction, and frequency of maintenance. Within construction estimating error and agreed upon responsibilities there is merit in this assumption.

One critical aspect of the maintenance process is procuring environmental permits for maintenance operations in sensitive riparian habitats. Presently General Services has permits and is tasked to continue to procure permitting to allow sedimentation removal from the Sorrento Creek reach, Sorrento Creek - Desilting basin, Carroll Creek, a downstream section of Los Peñasquitos creek, and the confluence of all. LPLF has agreed for the life of the agreement to procure separate permitting for maintenance of the SB on the Park and Recreation Open Space. Failure to provide this permitting will sunset the maintenance agreement.

General Services, Street Division supports the maintenance agreement as provided in that it is potentially cost neutral to Street Division, allows for mission flexibility, does not increase City permitting requirements or responsibilities, and the new sedimentation basin has potential downstream environmental benefits for the City.

FISCAL IMPACT

The planning, permitting, design, and construction of the sediment basin are pursuant to State Coastal Conservancy and SWPCB grants and require no cost to the City of San Diego. This agreement will require the General Services, Street Division to maintain the basin, in such a way that it will be potentially cost neutral over current maintenance requirements at Sorrento Creek.

LPLF will provide assistance by performing both the monitoring and the inspection of the basin structure, notifying Streets Division when maintenance will be necessary and the annual removal of vegetation within the basin.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

LPLF has completed an informative video describing impacts to the Lagoon and how community members can get involved in restoring and protecting Los Peñasquitos Lagoon and providing important information to interested stakeholder groups.

STAKEHOLDERS AND PROJECTED IMPACTS:

The State Coastal Conservancy and California State Parks Department are supportive of this project. Environmental impacts are minimal as the project will remove any invasive vegetation in the project area and replant with native species suggested by State Parks.

LoMedico/Goldstone

Staff: Joshua Garcia - (619) 533-6713  
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

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

MOTION BY COMMON CONSENT TO RETURN ITEM TO THE MAYOR. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-58: Establishment and Exemption of a Program Coordinator.

(See memorandum from Hadi Dehghani dated 11/15/2007 and Anna Danegger dated 9/28/2007.)

**STAFF'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2008-73)                      RETURNED TO MAYOR

Introduction of an Ordinance exempting a Program Coordinator position from the Classified Service.

Staff: Anna Danegger - (619) 236-6107  
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION:                      MEET

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

MOTION BY COMMON CONSENT TO RETURN ITEM TO THE MAYOR. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-100: Approving and Awarding Contract to Vince Tarantino & Sons for As-Needed Maintenance at City Landfills. (Miramar Marine Corps Air Station, Oak Park, Balboa Park, and Mission Bay Park Community Areas. Districts 3, 4, 6, and 7.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-394)                      ADOPTED AS RESOLUTION R-303231

Authorizing the Mayor, or his designee, to award and execute a contract with Vince Tarantino & Sons, Inc., for as-needed improvements and maintenance at City landfills in an amount not to exceed \$121,951.22 for one year, with the total contract amount not to exceed \$250,000, on Work Order No. 370051;

Authorizing the expenditure of an amount not to exceed \$121,951.22, for the above contract, to be expended as follows: \$17,073.17 from Fund No. 41200, Refuse Disposal Enterprise, Dept 752, Waste Reduction and Disposal Division, for maintenance activities; and \$104,878.05 from Fund No. 41201, Refuse Disposal CIP (Job Order No. 370051), CIP-37-004.0: Annual Allocation -Minor Landfill Requirements, for improvements;

Authorizing the expenditure of an amount not to exceed \$128,048.78, if the Mayor, or his designee, exercises the one-year renewal option, to be expended as follows: \$17,926.83 from Fund No. 41200, Refuse Disposal Enterprise, Dept 752, Waste Reduction and Disposal Division; and \$110,121.95 from Fund No. 41201, Refuse Disposal CIP (Job Order No. 370051), CIP-37-004.0, Annual Allocation - Minor Landfill Requirements; contingent on Council's adoption of the Fiscal Year 2009 Annual Budget and Annual Appropriation Ordinance; and provided that the City Auditor and Comptroller provides one or more certificates demonstrating that the funds necessary for this expenditure are, or will be, on deposit in the City Treasury;

Declaring that the above activity is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15304 because it constitutes minor alterations to land. (BID-M073525)

**STAFF SUPPORTING INFORMATION:**

Under state and federal law, the City has the obligation to maintain closed and inactive landfills for a period of 30 years following closure. The Environmental Services Department (ESD) currently has the responsibility to maintain six (6) closed landfill sites located throughout the City. Maintenance typically consists of minor grading, installation of drainage structures, erosion control devices, concrete repairs, etc. Due to the unpredictability of these services, ESD does not retain the staffing or equipment to maintain these inactive sites to the level required by the regulatory agencies; (California Integrated Waste Management Board, Local Enforcement Agency, and Regional Water Quality Control Board). The work is needed to protect groundwater, reduce air pollution, limit pollution from erosion and settlement, and to protect the public. The exact extent of the work is difficult to predict.

On March 7, 2007, the City opened bids for as-needed landfill maintenance at various City landfills and the apparent low bidder was Vince Tarantino & Sons, Inc. for \$74,669.25. ESD desires to award a contract to Tarantino & Sons, Inc. for \$121,951.22 (\$47,281.87 above the bid price) and retain the option to renew for an additional one (1) year period at the same unit prices plus a 5% allowance for cost increases (FY-09 award to be \$128,048.78). The increase above the bid price is due to the "as-needed" nature of this contract that is typically dependent on weather, rainfall, and settlement.

**FISCAL CONSIDERATIONS:**

Funds are available in Refuse Disposal Enterprise Fund No. 41200 and shall not exceed \$250,000 for these services.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:** None.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** N/A.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Vince Tarantino & Sons, Inc., City of San Diego Environmental Services Department, and Citizen's of San Diego.

Heap/Hass

Aud. Cert. 2800302.

Staff: Kip Sturdevan - (858) 573-1214  
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: CONT-Vince Tarantino & Sons, Inc. (W.O. 370051)

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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

- \* ITEM-101: Inviting Bids for the Construction of Carmel Valley Skate Facility (Project).  
(Carmel Valley Community Area. District 1.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2008-438) ADOPTED AS RESOLUTION R-303232

Approving the plans and specifications for the construction of Carmel Valley Skate Facility (Project);

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to execute a construction contract with the lowest responsible and reliable bidder for the Project, contingent upon the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$2,659,000 from CIP-29-887.0, Carmel Valley Skate Facility, Fund No. 79002, Carmel Valley North Facilities Benefit Assessment, solely and exclusively for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

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

Subitem-B: (R-2008-439) ADOPTED AS RESOLUTION R-303233

Declaring that the Addendum to Mitigated Negative Declaration Project No. 125903, for the Carmel Valley Skate Facility (Project) has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.);

Declaring that the Addendum to the Mitigated Negative Declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Project;

Finding that revisions to the Project now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, approving said Addendum to Mitigated Negative Declaration, Project No. 125903;

Adopting the Addendum to the Mitigated Negative Declaration, Project No. 125903;

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

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

**STAFF SUPPORTING INFORMATION:**

The proposed Project will be located at the northwest corner of El Camino Real and Elijah Court next to the new Northwestern Area Police Station at 12780 El Camino Real in the community area of Carmel Valley in Council District 1.

On December 7, 2004, the City awarded a design-build contract for the Northwestern Area Police Station and Community Service Center (CSC) to be constructed at the intersection of El Camino Real and Elijah Court in Carmel Valley, CIP-36-059.0. In the original design-build proposal, this project was to include a CSC. The CSC was eliminated from the project and 15,000 square feet of the site became available for another use.

The community expressed a desire to use this site for a new skate facility. The site is located near the Carmel Valley Community Park. The initial funding of \$50,000 in Fund No. 390662, Sub Area II Planned Developer Impact Fee (PDIF) was approved previously by the Council to allow City staff to study the viability of placing a skate facility at this location.

On January 17, 2007, the City of San Diego executed a consultant agreement with DeLorenzo Inc. to provide the professional services required for the preparation of the construction documents and construction support for the improvements of the project, which include concrete skate facility, restroom/concession building, a spectator area, site lighting for night use and landscape.

This action will allow the Engineering and Capital Projects Department to open bids and proceed with the construction of the Project.

FISCAL CONSIDERATIONS:

Funding for this action is available from Fund No. 79002, Carmel Valley North Facilities Benefit Assessment.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On August 1, 2005, City Council adopted Resolution R-300716 amending Fiscal Year 2006 Capital Improvement Program by adding CIP-29-887.0, Carmel Valley Skate Facility and increasing the budget amount by \$50,000 and approving expenditure of \$50,000 from Fund No. 390662, Sub Area II PDIF, for the initiation of this project.

On September 26, 2006, City Council adopted Resolution R-301929 amending Fiscal Year 2007 Capital Improvements Program by increasing the budget amount by \$400,000 and authorizing the expenditure of \$400,000 contingent upon award of consultant contract from Fund No. 79002, Carmel Valley North Facilities Benefit Assessment (FBA), for the design of this Project.

On January 31, 2007, Council adopted Resolution R-302260 authorizing the execution of a consultant agreement with DeLorenzo Inc. for the design of the Project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On July 27, 2004, the Carmel Valley Community Planning Board (CVCPB) voted unanimously to remove the community service Center from the Police Station design due to the cost exceeding what was available in the Facilities Benefit Assessment.

On May 10, 2005, the CVCPB appointed a Skate Facility Subcommittee to discuss the idea of a skate facility as a response to several community requests.

On September 12, 2006, the CVCPB voted unanimously to support the allocation of \$400,000 of FBA for the Skate Facility.

The project design has been approved by the following:

- CVCPB - 3/13/07
- Design review Committee - 4/11/07
- Park & Rec. Board - 5/17/07

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Carmel Valley Recreation Council

Carmel Valley Community Planning Board (CVCPB)

Carmel Valley Skate Park Focus Group as Subcommittee of CVCPB

Prime Consultant: DeLorenzo, Inc., Sub-Consultants: Site Design Group, Inc., Arc Pac, Inc., Burkett & Wong, Edaw, BSE Engineering, Darnell & Associates, Geocon, Inc.

Jarrell/Haas

Staff: Darren Greenhalgh - (619) 980-2984  
Christina Bellows - Deputy City Attorney

FILE LOCATION: SUBITEMS A & B: W.O. 298870

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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



ITEM-102: Inviting Bids for the Construction of Otay II Pipeline Improvements North Encanto Replacement. (North Encanto Community Area. District 4.)

(See Water Department's 9/26/2007 Executive Summary Sheet; and Water Department's 9/26/2007 PowerPoint.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-402) CONTINUED WITH DIRECTION TO  
TUESDAY, JANUARY 8, 2008

Approving the plans and specifications for the construction of Otay II Pipeline Improvements North Encanto Replacement as advertised by Purchasing and Contracts Department, on Work Order No. 186991;

Authorizing the expenditure of \$9,255,864 from Water Fund 41500, CIP-73-286.0, Otay Pipeline Improvements of which \$8,862,364 is from Water Fund 41500, CIP-73-286.0, for the purpose of providing for the construction and related costs associated with Otay 2<sup>nd</sup> Pipeline Replacement Project- North Encanto Segment and \$393,500.00 is from Water Fund 41500, CIP-73-331.0, Annual Allocation- Water Pooled Contingency, for the purpose of providing funds for this project contingency provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract phases are, or will be, on deposit with the City Treasurer;

Authorizing the Mayor, or his designee, to establish contract funding phases and execute a construction contract with the lowest responsible and reliable bidder provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract phases are, or will be, on deposit with the City Treasurer;

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



Declaring that this activity is covered under the Otay II Pipeline Improvements Project (PTS No. 5503) Environmental Impact Report. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review because the prior environmental documents adequately cover this activity as part of the previously approved project. This activity is not a separate project for purposes of CEQA review per CEQA Guidelines Sections 15060(c)(3) and 15378(c). (BID-K082408C)

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 9/26/2007, NR&C voted 4 to 0 to approve. (Councilmembers Faulconer, Maienschein, Frye, and Hueso voted yea.

**SUPPORTING INFORMATION:**

The Otay II Pipeline was constructed in 1929 and conveys water 19 miles from Otay Water Treatment Plant to the University Heights Reservoir in North Park. The City Council approved the Otay II Pipeline Improvements Project, LDR 42-0955 EIR on June 28, 2004, by Resolution R-299380. The EIR was completed for the entire 19 mile long, 36-inch diameter water transmission pipeline. The EIR contemplated 8 projects or phases to complete the required replacements, realignments and cathodic protection improvements necessary to address a variety of deficiencies found in the 78 year old pipeline. The North Encanto Replacement realigns and replaces one mile of the existing 36-inch pipe with new, 42-inch welded steel pipe. The 100% designed plans have been on hold for 3 years for lack of funding. City Environmental staff has confirmed: This activity is covered under the Otay II Pipeline Improvements Project (PTS No. 5503) Environmental Impact Report. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental documents adequately covered this activity as part of the previously approved project, the activity is not a separate project for purposes of CEQA review per CEQA Guidelines Sections 15060(c)(3) and 15378(c).

This pipeline is a critical backbone water transmission and distribution system. It is used to convey up to 20 million gallons of water per day north and south between the Alvarado and Otay water treatment plants' service areas. The primary objective of the Otay 2<sup>nd</sup> Pipeline Improvement Project is to maintain a reliable source of potable water through maintenance, realignment, or replacement of the existing pipeline. The new pipeline will be constructed within the public street rights-of-way.

Failure to replace the aging pipeline will negatively impact the department's flexibility to convey water between service areas. Any further delay to these projects risks pipe breaks that have potential to disrupt water service and increase Water Department costs associated with water pipe breaks. This project includes the installation of approximately 7,600 feet of new 42-inch welded steel pipe, installation of curb ramps, and asphalt pavement overlay or slurry seal of Brooklyn, Otay and 60<sup>th</sup> Streets. The one year construction duration is anticipated to begin in February of 2008.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$9,973,376 of which \$717,512 was previously authorized. The remaining cost of this project is \$9,255,864 and will be phase funded in FY 2008 in the amount of \$4,035,782, and FY 2009 in the amount of \$5,220,082. Water Department revenue is dedicated for this project; 80% of the CIP funding will be coming from an anticipated debt issuance in 2008. Funding is available in Water Fund 41500, CIP-73-286.0 Otay II Pipeline Improvements.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Project was approved by the Natural Resources and Culture Committee on September 26, 2007. The design agreement with Boyle Engineering was approved by City Council Resolution (R-298463) dated September 29, 2003.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Community outreach occurred during the design phase in 2004. Further community outreach efforts are planned for the North Encanto community prior to and during construction. Moreover, a CIP hotline is regularly maintained to answer any questions and provide information to the public. Door hangers, fact sheets, and updates to the City of San Diego Web site are also included in the plan for community outreach.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Key stakeholders are rate payers who receive water from the Otay 2<sup>nd</sup> Pipeline, design consultant Boyle Engineering, and construction contractor to be selected through the bid process.

Barrett/Haas

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 4:58 p.m. - 5:10 p.m.)

MOTION BY YOUNG TO CONTINUE TO JANUARY 8, 2008, WITH DIRECTION TO COME BACK AND TO TRY TO INCREASE OUTREACH IN ALL COMMUNITIES. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-103: Emergency Repair of the Spruce Street Pedestrian Bridge in the Uptown Community Plan Area. (Uptown Community Area. District 2.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-358 Cor. Copy) ADOPTED AS RESOLUTION R-303234

Stating that the severity of the main tenance report, and consequently, the possibility of failure of the Spruce Street Bridge is declared to constitute an emergency within the meaning of the City of San Diego Charter Section 94 and that the immediate repair of the pedestrian bridge was necessary to remediate that emergency;

Amending the Fiscal Year 2008 Capital Improvement Program Budget, by adding CIP-54-013.0, Spruce Street Pedestrian Bridge Emergency Repair (Project);

Amending the Fiscal Year 2008 Capital Improvements Program Budget for CIP-54-013.0, Spruce Street Pedestrian Bridge Emergency Repair, by increasing the budget amount by \$78,818 in Fund No. 630221, Contributions to the CIP from Fund 100;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$78,818 from Fund 100, General Fund, General Services Department 534, to Fund 630221, Contributions to the CIP from Fund 100, for the purpose of emergency repairs located on the Spruce Street Pedestrian Bridge;

Authorizing the appropriation and expenditure of an amount not to exceed \$78,818 from CIP-54-013.0, Spruce Street Pedestrian Bridge Emergency Repair, Fund 630221, Contributions to the CIP from Fund 100, solely and exclusively, for the purpose of providing funds for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the Mayor to award a contract to, and to execute a contract with, Erreca's Incorporated for completion of the Project, in an amount not to exceed \$66,652, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

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

Declaring that this activity is statutorily exempt from CEQA pursuant to State CEQA Guidelines Section 15269. Exempt for emergency.

**STAFF SUPPORTING INFORMATION:**

The Spruce Street Pedestrian Bridge is located between Front Street & Brant Street. This historical suspension bridge was constructed in 1913. In 1986, restoration work was done in an effort to help maintain the structural integrity of the bridge. Since then, as further deterioration continued, the bridge aged which compromised public safety.

As detailed in a maintenance inspection report, the main suspension cables are exhibiting corrosion throughout the decades of service. Additionally, the lead collars which support the main suspension cable to the walking platform were also exhibiting corrosion.

Based on these findings, it was determined that damaged/missing lead collars, suspender ropes, bridge deck kickplates and eyebolts would need replacement. If the structure was left in this condition, there was a possibility of the bridge collapsing and causing harm to the public. Due to the amount of time since the original construction of the bridge, the project required excavation and inspection of the cable foundation and anchorages. This provided an opportunity to evaluate the essential bridge components and assess the future needs of this historic structure. Also, cleaning and repainting of the main suspension cable and bridge towers should extend service life.

The scope of work required an in-depth understanding and knowledge of repair and restoration of historic bridges. Three construction firms were contacted but only Erreca's Incorporated responded with interest. Erreca's Incorporated completed a repair contract with Caltrans for the 1915 Laurel Street Bridge within Balboa Park and had the expertise and special equipment required to perform the work needed for the Spruce Street Pedestrian Bridge. Therefore, staff recommends that Erreca's Inc. be awarded an emergency repair contract in an amount of \$66,652. This amount reflects the additional work required to construct a retaining wall and concrete pad around the end anchor to divert surface runoff from this important structural component. The additional work, currently being formalized in a contract change order, will help extend the bridge's service life.

The engineer's funding estimate to prepare the project for construction and administer construction management is \$12,166 (\$2,101 for Design support; \$10,065 for Field Engineering). Any funding remaining in the project account upon completion of the construction contract shall be returned to the appropriate reserves.

FISCAL CONSIDERATIONS:

\$78,818 is available through a transfer from General Fund 100, General Services Department 534, to Fund 630221, Contributions to the CIP from Fund 100.

PREVIOUS COUNCIL COMMITTEE ACTION: None.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The Banker's Hill community has been informed. A letter detailing the construction and the need for temporary bridge closure throughout construction operations have been provided to the community.

**KEY STAKEHOLDERS:**

City of San Diego

Jarrell/Haas

Aud. Cert. 2800287.

Staff: Dave Zoumaras - (619) 533-3138  
Peter A. Mesich - Deputy City Attorney

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 10:38 a.m. – 10:54 a.m.)

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

\* ITEM-104: Park Acquisition Reimbursement Agreement with San Diego Unified School District for Fairbrook Neighborhood Park. (Scripps Miramar Ranch Community Area. District 5.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-448 Cor. Copy) ADOPTED AS RESOLUTION R-303227

Authorizing the Mayor, or designee, to execute, for and on behalf of the City, the Park Acquisition Reimbursement Agreement for Fairbrook Neighborhood Park with the San Diego Unified School District;

Authorizing the expenditure of an amount not to exceed \$375,000 from CIP-29-717.0, Fairbrook Neighborhood Park Acquisition, Scripps/Miramar-Major District, Fund No. 11230, contingent upon certification by the City Auditor and Comptroller that revenues are available at the time reimbursement is scheduled for this project;

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

Declaring that this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

**STAFF SUPPORTING INFORMATION:**

The proposed Fairbrook Neighborhood Park is approximately 3.11 gross acres, 2.7 net useable acres, in size and located within the Fairbrook Estates Subdivision of the Scripps Miramar Ranch Community Planning Area. The park site is designated as Lot A as depicted on the Fairbrook Estates Vesting Tentative Map and reserved for park purposes.

Execution of this proposed Park Acquisition Reimbursement Agreement between the City of San Diego and the San Diego Unified School District (Subdivider) will satisfy Condition Nos. 34 and 36 of the Fairbrook Estates Vesting Tentative Map No. 98-1011 (VTM) approved on October 19, 1999 by the City Council, Resolution No. R-292323, and extended by City Council approval on November 14, 2006, Resolution No. R-302092.

Condition No. 34 requires the School District, at the time of recordation of the first final map within the subdivision, to enter into an agreement with the City for the City to acquire the park site at fair market value within two years after completion and acceptance of all public improvements, unless such period of time is extended by mutual agreement. Condition No. 36 establishes criteria to be used by the appraiser in determining the fair market value of the park site. Accordingly, the park site was appraised on December 4, 2002 at a fair market value of \$350,000.

The Subdivider will be reimbursed for the acquisition of the park site, pursuant to the agreement, in Special Park Fees collected for this purpose. Cash reimbursement will occur as provided for in the FY 2007 Scripps Miramar Ranch Public Facilities Financing Plan (PFFP), or as cash becomes available if not available when allowed for by the PFFP. The PFFP allows for reimbursement beginning in Fiscal Year 2007.

Development of the park site will occur as scheduled in the PFFP under a separate capital improvement project subsequent to City acquisition of the park site.

If the School District does not file a final map for the VTM prior to the expiration date of December 7, 2007, the VTM and permits will expire. Thus, the School District would be required to begin the entitlement process over again at additional time and expense. Additionally, if the VTM expires, and the School District chose to resubmit the VTM, the purchase price of the park site would no longer be tied to the original date in which the VTM submittal was deemed complete on December 1999, which would result in an increased fair market value and cost to the City.

FISCAL CONSIDERATIONS:

All approved costs associated with the acquisition of the land for this project are funded through CIP-29-761.0, Fairbrook Neighborhood Park - Acquisition, Scripps/Miramar - Major District, Fund No. 11230.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Fairbrook Estates Vesting Tentative Map No. 98-1011 was approved on October 19, 1999, by City Council, Resolution No. R-292323, and extended on November 14, 2006, by City Council Resolution No. R-302092 subject to certain conditions.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS:

The proposed subdivision and park site have been extensively reviewed by the community members of Scripps Miramar Ranch over the past two years and they are supportive of this action. On July 7, 2005, the Scripps Ranch Planning Group voted to recommend approval of the proposed extension of time for the subdivision.



KEY STAKEHOLDERS and PROJECTED IMPACTS (if applicable):

Key stakeholders include the San Diego Unified School District, the City of San Diego Park and Recreation Department, and the residents of Scripps Miramar Ranch.

Anderson

Aud. Cert. 2800395.

Staff: Deborah Sharpe - (619) 525-8261  
Kimberly Ann Davies - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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

\* ITEM-105: Agreement with Camp Dresser & McKee, Inc. (CDM) for Professional Services Related to Engineering Feasibility Study.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-424 Cor. Copy) ADOPTED AS RESOLUTION R-303235

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Engineering Consulting Agreement with Camp Dresser & McKee, Inc. (CDM), for consulting services as related to an Engineering Feasibility Study for the Water Department Business & Support Services Division in an amount not to exceed \$156,762, for the planned issuance of the Subordinate Water Revenue Notes, Series 2008B;

Authorizing the expenditure of an amount not to exceed \$156,762.00 in Water Fund 41500, solely and exclusively for the purpose of providing funds for the above Consulting Agreement and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

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

Declaring that this activity is an organizational or administrative activity of a government that will not result in direct or indirect physical changes in the environment and hereby not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378(b)(5).

**STAFF SUPPORTING INFORMATION:**

In response to state and federal mandates requiring the City to upgrade its water facilities, the City has prepared a Capital Improvement Program (CIP) which includes a wide variety of improvements throughout the water system. In order to support this CIP, a combination of funding including the issuance of bonds is anticipated. On February 26, 2007, the City Council approved a series of four consecutive annual increases to water rates to generate additional revenue to accommodate the debt service associated with the anticipated bonds issuances to support the CIP. The first approved water rate increase went into effect on July 1, 2007.

In developing the necessary bond documents to return to the public bond market, a feasibility study will need to be conducted to assess and review the capabilities and procedures of certain City departments in order to produce the required Engineer's Statement of Feasibility for the bond documents. This feasibility study will include, but not be limited to, an assessment and review of the proposed CIP, review of the organizational structure of certain City departments, review and opinion as to the City's ability to execute the proposed CIP, review of the current water rate structure and anticipated revenues, and preparation of a final summary report to incorporate into the bond documents. To conduct this feasibility study, it is recommended that an independent Engineering consultant be retained.

It is proposed that CDM, an independent Engineering consultant be selected to provide these services. In a coordinated effort with the Contract and Purchasing Department, several firms from the City's Engineering firms rotation list were contacted and advised of the proposed scope of work and desired timetable.

Invitations for interviews were forwarded and through the interview process, CDM was determined to be very capable of fulfilling the scope of work, have extensive knowledge in conducting feasibility studies, and willing to undertake the Project with the proposed schedule of deliverables.

FISCAL CONSIDERATIONS:

The total cost of the contract with CDM will be for an amount not to exceed \$156,762. As the Project is directly related to the anticipated public bond issuance and qualifies as a reimbursable cost of issuance, this entire amount is anticipated to be reimbursed from proceeds from the public bond issuance anticipated to occur in late FY 08.

PREVIOUS COUNCIL COMMITTEE ACTION:

There have been no previous actions regarding this project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

There has been no community participation or public outreach regarding this project.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

- The key stakeholders are the City of San Diego, Water Department customers, and the Department of Public Health. Failure to complete the Project may comprise the City's ability to access the public bond market as the Engineer's Statement of Feasibility is necessary for the required bond documents. Delay in acquiring substantial funding to support the CIP may hinder the City's efforts to undertake/complete certain capital improvement projects and/or meet certain requirements mandated from the Department of Public Health.
- Camp Dresser & McKee, Inc.

Barrett/Haas

Aud. Cert. 2800382.

Staff: Rod Greek - (619) 533-5407  
Raymond C. Palmucci - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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

ITEM-106: Design Agreement with Malcolm Pirnie, Inc. for San Diego 17 Pump Station/22 Flow Control Facility. (Navajo Community Area. District 7.)

(See Water Department's May 29, 2007, Executive Summary Sheet; and Water Department's June 20, 2007, PowerPoint.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-460)                      ADOPTED AS RESOLUTION R-303236

Authorizing the Agreement with Malcolm Pirnie Inc., providing design services to complete the design and support services during the construction of San Diego 17 Pump Station/22 Flow Control Facility;

Authorizing the expenditure of \$720,000 from Water Fund 41500, CIP-73-314.0, San Diego 17 Pump Station/22 Flow Control Facility for engineering services provided by Malcolm Pirnie Inc.;

Authorizing the expenditure of \$70,000 from Water Fund 41500, CIP-73-314.0, San Diego 17 Pump Station/22 Flow Control Facility for in-house engineering services and related costs;

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

Approving, certifying, and adopting the Negative Declaration (No. 104515, Final Report dated November 22, 2006) for the San Diego 17 Pump Station/22 Flow Control Facility Project.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 6/20/2007, NR&C voted 3 to 0 to approve. (Councilmembers Faulconer, Frye, and Hueso voted yea. Councilmember Maienschein not present.)

San Diego 17 Pump Station/22 Flow Control Facility (SD17PS/22FCF) is located within the Alvarado Water Treatment Plant (AWTP) site near the Joint Laboratory along Lake Murray Boulevard. SD17PS/22FCF will pump up to 60 million gallons a day (mgd) of AWTP treated water directly into the San Diego County Water Authority (CWA) treated water aqueduct to supply the Mid City Pipeline, Otay Water District and other municipalities. The new 60 mgd SD 17PS/22FCF, with an ultimate expansion to 90 mgd, will be designed to operate both as a pump station and flow control facility. The SD17/22FCF will have the ability to transfer treated water from AWTP to CWA's aqueduct while accepting water routed from aqueduct for distribution within the City of San Diego. It also allows for longer shut down periods of the AWTP for maintenance while improving water reliability for the region. Negotiations are proceeding to sell excess treated water to CWA or other agencies via this facility.

Malcolm Pirnie Inc., (MPI) was selected via an October 16, 2000 Sole Source Memo, to provide design and construction support services for the project. Their Agreement for \$905,667 was authorized by the City Council on November 20, 2000. However, due to budget constraints, this project was put on hold at the completion of 90 percent design. The agreement with MPI expired in 2003 and the remaining \$317,842.41 of contract balance was de-appropriated. In November 2006, the State of California, Department of Public Health Services (DPH) issued a preliminary approval of \$10 million Security Grant under Proposition 50. Subsequently, the SD17PS/22FCF has been listed as a major section of the Security Grant. In order to fulfill grant requirements, this project must complete the design, bid, award and construction of the facility within three years from the executed grant funding agreement date. The grant funding agreement date is expected in mid-spring of 2008.

The Engineering and Capital Projects Department is requesting the authorization to enter into a new agreement with MPI to complete the design and provide design support services during construction. MPI is recommended because: they are the designers for the AWTP Project Phases I, II, III, and IV, are uniquely aware of the operational constraints and can ensure the facility is effectively integrated into AWTP. To hire a new consultant at this stage will increase the design costs, delay the project and cause the City to miss deadlines established by DPH. The additional design costs required to complete the project are necessary due to the changes in design scope (cathodic protection/corrosion and landscape/architectural designs are added to the project scope), reevaluating the existing design, preparation of the technical specifications according to the City's updated standards, project delays/staff changes, higher consultant labor rates and higher consultant direct costs.

The City of San Diego has conducted an initial study and determined that the proposed project will not have any significant environmental impact and the preparation of an Environmental Impact Report will not be required. Negative Declaration (No. 104515), Final Report dated November 22, 2006, was prepared for this project.

FISCAL CONSIDERATIONS

Water Department revenue is dedicated for this project. The total amount of this request is \$790,000, of which 80% will be reimbursed from an anticipated water revenue debt issuance in FY 2008 and 20% will be cash funded.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The previous design agreement with MPI (RR-294219) was approved by the City Council on November 20, 2000. The agreement expired in 2003. This project was also presented and approved as part of the Grant Presentation at the Natural Resources and Culture Committee meeting of June 20, 2007 and Council Meeting of July 10, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Community outreach occurred during the early design stages of the project. Further outreach efforts are planned for the community prior to and during construction. Moreover, a hotline will be regularly maintained to answer any questions and provide information to the public. Door hangers, fact sheets, and updates to the City of San Diego web site are also included in the plan for community outreach.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders are the Water rate payers, Malcolm Pirnie Inc. (Design Consultants), California Department of Public Health Services (DPH), San Diego County Water Authority (CWA) and Otay Water District.

Jarrell/Haas

Aud. Cert. 2800397.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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



ITEM-107: Adoption of the 2007 San Diego Integrated Regional Water Management Plan.

(See Report to the City Council No. 07-164; Report to the City Council No. 07-200 [not available at Committee].)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-369)            ADOPTED WITH DIRECTION AS  
RESOLUTION R-303237

Authorizing the Mayor to adopt the Integrated Regional Water Management (IRWM) Plan on behalf of the City.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 11/2/2007, NR&C voted 3 to 0 to approve. (Councilmembers Peters, Faulconer, and Frye voted yea. Councilmembers Maienschein and Hueso not present.)

**SUPPORTING INFORMATION:**

The City of San Diego (City), the County of San Diego (County), and the San Diego County Water Authority (Water Authority), with active stakeholder participation, have produced the first-ever San Diego Integrated Regional Water Management Plan (IRWM Plan).

A fourteen page Highlights document summarizes the IRWM Plan. The Highlights document - which includes a CD with the full IRWM Plan - is attached for your reference (Attachment 1).

IRWM planning recognizes that water supplies, water quality, and natural resources within a region are connected and, as such, focuses on water management planning and projects that produce multiple benefits across those areas. The San Diego IRWM Plan establishes four regional goals: optimize water supply reliability, protect and enhance water quality, provide stewardship of natural resources, and coordinate and integrate water resource management.

Proposition 50, approved by California voters in 2002, authorizes \$500 million in state funds for IRWM projects, of which \$64.5 million remains for Round 2 project implementation grants. Proposition 84 (2006) authorizes \$1 billion for IRWM planning and projects in California, with \$91 million allocated to the San Diego sub-region. San Diego is also eligible for \$100 million of unallocated statewide Prop 84 IRWM funding. Proposition 1E (2006) provides \$300 million statewide for flood management and storm water projects identified in an IRWM Plan.

In 2005 the City, the County, and the Water Authority formed, via a Memorandum of Understanding, a Regional Water Management Group (RWMG) to create the IRWM Plan and to pursue Propositions 50 and 84 IRWM grant funding. The Water Department represents the City on the RWMG.

The IRWM Plan has undergone a thirty-day public review. The Regional Advisory Committee (RAC, see below) has unanimously recommended approval of the IRWM Plan. The City, the County, and the Water Authority must adopt the IRWM Plan by January 1, 2008 for the Region to be eligible for Propositions 50 and 84 grant funding.

The San Diego Region has prepared a package of 21 projects for the Proposition 50 Round 2 grant application, with a total funding request of \$25 million. The package includes five projects sponsored by City of San Diego that will receive a total of \$5.7 million if the Region's application is fully funded. Additionally, eleven projects sponsored by other entities will directly or indirectly benefit the City. Other project proponents include the San Diego River Park Foundation, San Diego Coastkeeper, the San Dieguito River Valley Conservancy, the Zoological Society of San Diego, the Water Authority, and the County. A list of the projects is in Attachment 2.

**FISCAL CONSIDERATIONS:**

The City, the County, and the Water Authority have equally shared the costs of IRWM Planning. To date, the City's equal share has been \$300,000 (\$100,000 in FY05 and \$200,000 in FY07) paid from Water Fund 41500, Organization 5023 or 861, Job Order 55023.

**PREVIOUS COUNCIL/COMMITTEE ACTION:**

On June 13, 2005, the City Council adopted Resolution R-300517 authorizing the City Manager to execute the initial MOU and authorizing the expenditure of \$100,000 to cover the City's equal share of the funding to implement the initial MOU. On June 26, 2007, City Council adopted Resolution R-302766 authorizing the Mayor to execute the Amendment No. 1 to the MOU, and authorizing the expenditure of \$200,000 to cover the City's equal share of the funding to implement the Amendment. A Public Review Draft of the 2007 IRWM Plan was presented to NR&C as an informational item on July 18, 2007. This item will be presented to the NR&C Committee on November 2, 2007.



COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Water Department, as a partner with the County and the Water Authority, has been actively involved in comprehensive public outreach efforts for the IRWM Plan, including three regional workshops, two project funding workshops, and thirty-two presentations to interest groups. IRWM Planning was the focus of the Project-Clean Water Summit held in June 2006 and attended by over 250 stakeholders. In late-2006 a Regional Advisory Committee (RAC) consisting of twenty-five experts in water supply, wastewater, storm water, natural resources, and environmental stewardship was formed to assist in developing the IRWM Plan. The RAC has met thirteen times and will continue to meet approximately monthly. A website ([www.sdirwmp.org](http://www.sdirwmp.org)) disseminates information about the IRWM Plan.

KEY STAKEHOLDERS:

Stakeholders in IRWM Planning are any governmental or non-governmental entities that have a role in or are affected by the management of water in the San Diego Region. Key among these are the agencies and entities represented on the RAC (see page 7 of Highlights).

Barrett/Haas

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.;  
10:57 a.m. – 11:06 a.m.)

MOTION BY FRYE TO ADOPT THE RESOLUTION. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY FRYE TO DIRECT STAFF TO AMEND THE PROPOSITION 50 PROJECTS TO INCLUDE OR REPLACE THE FIRST PROJECT AND REPLACE WITH THE PILOT PROGRAM. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-nay, Atkins-yea, Young-nay, Maienschein-nay, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-108: Lease Agreement with Driscoll Marina LTD., to Extend Term of Existing Lease at Driscoll's Wharf. (Midway Community Area. District 2.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-350)                      ADOPTED AS RESOLUTION R-303238

Authorizing the Mayor to execute, for and on behalf of the City of San Diego, a fourth amended Lease Agreement with Driscoll Marina, LTD., for an additional one year extension.

**STAFF SUPPORTING INFORMATION:**

The Environmental Monitoring & Technical Services Division has maintained docking facilities and office/storage space at the Driscoll's Wharf Site (4918 North Harbor Drive, SD 92106) since 1990. The Driscoll's Wharf site is advantageous to the Division's NTC laboratory with its close proximity to the harbor from the City's contract boatyard and fueling dock. Suites 106 and 107 are to provide onsite accommodations for the boat operation staff, facilitating, planning and scheduling of ocean monitoring activities and enhancing vessel security and routine maintenance. The leased space also provides storage for regularly used ocean monitoring equipment and supplies used aboard the Division's Two Ocean-Going Vessels that are docked at Driscoll's Wharf.

**FISCAL CONSIDERATIONS:**

This Amendment is for 1,669 square feet of office space and two slips for two ocean vessels. The office space will rent for \$3,139.08 per month (\$1.88 per sq. ft.) and two slips at \$970.00 (\$10.00 per vessel foot and utilities) and is subject to an annual adjustment of three percent (3%). Rent is

approved in the FY08 budget. Real Estate Assets Valuation Staff has reviewed the lease and found the rental rate to be in line with other comparable facilities. This amendment would be for an initial term of twelve (12) months with two I-year renewal options. All other terms and conditions are the same as in the existing agreement.

Fiscal Impact: \$32,872.64 for FY08 (eight months)

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMP ACTS:

The Environmental Monitoring and Technical Services Division can retain their monitoring activities with close proximity to their vessels, thus increases operational and time efficiency. Driscoll Marina, LTD.

Barwick/Anderson

Staff: Charmaine Gill - (619) 236-6986  
Todd Bradley - Deputy City Attorney

FILE LOCATION: LEAS-Driscoll Marina LTD

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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

\* ITEM-109: Increasing the Real Estate Assets Department's Revolving Fund Limit.

(See Report to the City Council No. 07-199.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-430) ADOPTED AS RESOLUTION R-303239

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2008 Capital Improvements Program Budget in CIP-39-000.1, Revolving Fund for Expenses in Real Estate Transactions, in Fund No. 30245, Capital Outlay Sales Tax Fund, Org. No. 106, by \$100,000;

Authorizing the City Auditor and Comptroller to appropriate and expend up to \$300,000 from CIP-39-000.1, Revolving Fund for Expenses in Real Estate Transactions, Fund No. 30245, Capital Outlay Sales Tax Fund, Org. No. 106, for the purpose of paying certain expenses associated with the sale, lease or acquisition of property, as described in the accompanying Report to Council from the Real Estate Assets Department;

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

**STAFF SUPPORTING INFORMATION:**

The Real Estate Department (READ) is seeking to increase its Revolving Account total authorization limit from \$200,000 to \$300,000. The Revolving Account, more commonly referred to as the "Revolving Fund," provides a means to finance certain expenses associated with the sale, or lease or acquisition of property before a funding source such as sale proceeds, lease revenues or project appropriations have been specifically identified to pay for those expenses. Often, there are initial administrative costs required to expedite a sale, lease, or purchase of real estate. The advanced funds are reimbursed when the revenues or project funding become available. The "total authorization" is the limit of the sum of all separate expenditures charged to the Revolving Fund before reimbursement takes place.

On May 21, 2007, Council authorized READ to sell seventeen properties. READ now needs additional funds to properly implement this directive.

Some typical expenses of sales, leases, or acquisitions charged to the Revolving Fund would be, but are not necessarily limited to, the following:

- Preliminary Title Reports
- Appraisals
- Advertising (for other than broker marketed transactions)
- Printing (fliers, RFP's, etc.)
- Professional Services (i.e., engineers, surveyors, geological consultants, aerial photography, hazardous material clearance, etc.)

- Waste/Litter Removal
- Repair to Buildings
- Services from other City Departments (non-General Fund or reimbursable)
- Utility Costs

These expenses generally need to be paid when the service is provided or shortly thereafter, prior to completion of the transaction. Prices for services have also increased considerably since the Fund was last capitalized in 1992.

FISCAL CONSIDERATIONS:

The Real Estate Assets Revolving Account is funded by the existing Capital Outlay Sales Tax Fund which is reimbursed by proceeds of the anticipated sale or lease transaction or acquisition project funding. New expenditures will be offset by new sale or lease revenue, except for occasional instances when a proposed transaction does not occur such as a property does not sell, lease or a project is canceled. The Revolving Account is used for expenses where there is an expectation that money will be available in the future to reimburse the Revolving Account. When a property does not sell or lease as anticipated, reimbursement will come out of the annual Department No. 601 budget of \$15,000. Department No. 601 is the "Citywide" department used for the General Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Revolving Fund is established within the Capital Outlay Sales Tax Fund (Fund 30245, Org. 106 and has been capitalized five different times as follows:

1. Resolution R-196505, adopted April 3, 1969	\$25,000
2. Resolution R-201975, adopted February 23, 1971	\$15,000
3. Resolution R-251505, adopted March 31, 1980	\$25,000
4. Resolution R-264809, adopted January 6, 1986	\$35,000
5. FY 92 CIP 39-000.1	<u>\$100,000</u>
TOTAL	\$200,000

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders would be the City of San Diego which will benefit by receipt of the sale proceeds or lease revenues or use of the public project.

Barwick/Anderson

Aud. Cert. 2800313.

Staff: B. Lane MacKenzie - (619) 236-6050  
Brant C. Will - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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

\* ITEM-110: Accept Grant from Environmental Protection Agency (E.P.A.) National Community – Based Lead Outreach and Training Department.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-407) ADOPTED AS RESOLUTION R-303240

Authorizing the Mayor, or his designee, to negotiate, execute an agreement for, and accept grant funding in the amount of \$249,220 from the U.S. Environmental Protection Agency (EPA) in connection with the "National Community-Based Lead Outreach and Training Grant," to be used for public education and outreach regarding prevention of childhood lead poisoning;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend EPA grant award funds in the amount of \$249,220 to be used for the above purposes, subject to execution by the Mayor or designee;

Authorizing the City Auditor and Comptroller to establish a special interest bearing account for such grant funds consistent with grant requirements;

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

**STAFF SUPPORTING INFORMATION:**

The City's Lead Safe Neighborhoods Program (LSNP), coordinated by the Environmental Services Department (ESD), has been aggressively tackling the problem of lead poisoning in San Diego, since approved by City Council in the spring of 2002. During the past five years, LSNP has been developing strategies and relationships designed to tackle the issue of lead poisoning in a multi-faceted way, relying on a blend of outreach, training, lead hazard control, and code enforcement activities. Primary funding source for LSNP have been grants totaling in excess of \$10,000,000.

In January 2007, EPA announced \$1,500,000 in grant funding for eligible entities to conduct activities to reduce incidences of childhood lead poisoning in low income communities with older housing, with awards up to \$250,000.

As authorized by previous council resolution R-297794, ESD competed at the national level for this one (1) year grant and has been awarded \$249,220 with a targeted start date of January 1, 2008. This grant project is called the San Diego Lead Safety Project (SDLSP).

SDLSP focuses on lead outreach, education and training to reduce the number of children that are lead poisoned in the Target Area. SDLSP consists of a broad array of partner organizations that will be coordinated and led by the City's ESD. Grant partners consist of Bayside Community Center; Mid-City CAN; YMCA Childcare Resource Center Services; Latino Builders Development Corporation; Painting & Decorating Contractors of America; National Association of the Remodeling Industry; Associated General Contractors of America; and San Diego Association of Realtors.

**FISCAL CONSIDERATIONS:**

Total Project Amount: \$266,112

EPA Grant Amount: \$249,220 (all grant funds pay for City grant related activities and subcontract to San Diego Association of Realtors for \$5,100)

City's Share of SDLSP Match Amount: \$16,892. In-kind labor match is from ESD Program Manager over the one (1) year grant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The citizens of the City of San Diego and grant partners previously listed in this report.

Heap/Hass

Staff: Alan Johanns - (858) 573-1262  
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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

\* ITEM-111: Fire-Rescue Staffing for Adequate Fire and Emergency Response (SAFER) Program Grant.

(See Report to the City Council No. 07-195.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-423) ADOPTED AS RESOLUTION R-303241

Authorizing the Mayor, or his designated representative, for and on behalf of the City, to approve the application to the Department of Homeland Security-Federal Emergency Management Agency (FEMA) U.S. Fire Administration for a grant in the amount of \$2,530,200 from the Staffing for Adequate Fire and Emergency Response (SAFER) Program;



Authorizing the Mayor, or his designated representative, to take all necessary actions to secure grant funding for the staffing of two emergency response units;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend grant funds upon receipt to staff the two emergency response units.

**STAFF SUPPORTING INFORMATION:**

SAFER grants are designed to help local jurisdictions increase the number of frontline firefighters. The goal is to increase staffing and deployment capabilities, thus assuring adequate protection from fire and other "all-hazard" risks in local communities. San Diego expects to open a new fire station (No. 47) in the Pacific Highlands Ranch area in FY08. The SAFER grant, a five year program, would offset the cost of firefighters required to staff an engine and truck company in this new station.

Population growth in outlying areas without a corresponding increase in stations and firefighters has resulted in an increase in the area protected per engine district, run volume, building density and a reduction in firefighter per capita ratios. Furthermore, the shortage of truck companies affects the Department's ability to assemble a full effective fire force. For example, the two trucks that currently respond to the Pacific Highlands Ranch area cover 22 and 59 square miles respectively, which significantly drives-up response times. These factors have not only resulted in delayed response times but have adversely impacted response unit availability and increased fire losses.

The Pacific Highlands Ranch fire station was designed to house one engine company and one truck company to address the response issues noted above. The developer has purchased and delivered both emergency response apparatus. However, current funding will only provide for staffing of the engine company. Staffing of the truck company is not slated to occur until FY2012.

To expedite the staffing of the truck company, the SAFER Grant would be used to fund part of the cost of the 12 firefighter positions needed to staff both units. The awardee is required to match an increasing proportion of the salary over a four-year period and in the fifth year of the grant the awardee must absorb the entire cost of any positions awarded, as illustrated below. Table 1 displays the costs of firefighters only, the second Table reflects firefighters and captains and engineers.

FISCAL CONSIDERATIONS:

**COST OF FIREFIGHTERS FOR ONE ENGINE AND ONE TRUCK COMPANY (excluding Captains and Engineers)**

	<u>Grant Year 1*</u>	<u>Grant Year 2</u>	<u>Grant Year 3</u>	<u>Grant Year 4</u>	<u>Grant Year 5</u>
City	\$2,238,000	\$2,339,280	\$2,642,880	\$2,844,840	\$3,148,800
Grant	\$ 910,800	\$ 809,520	\$ 505,920	\$ 303,960	\$ 0
<b>TOTAL</b>	<b>\$3,148,800</b>	<b>\$3,148,800</b>	<b>\$3,148,800</b>	<b>\$3,148,800</b>	<b>\$3,148,800</b>

\* Grant Year estimated as April 1 - March 31

SDFD plans to open Fire Station 47 in November 2007. The estimated cost for 24 uniformed staff (6 Firefighter II's, 6 Firefighter/Paramedics, 6 Engineers, and 6 Captains cover three shifts) at Station #47 for FY 2008 is \$1,443,200. The annual cost for FY's 2009 - 2013 is \$3,936,000. Per the table above, SAFER funding would offset the cost of the 12 Firefighters over the grant period, estimated at \$2,530,200, beginning with \$910,800 in the first grant year (estimated as April 2008 - March 2009). The City's General Fund would be responsible for providing the balance of the cost during the first four grant years assuming full cost in the fifth grant year. The General Fund would also be responsible for the total cost of the Captain and Engineer positions. Since the station is expected to open in November, the SDFD FY08 budget includes \$1,300,000 towards its staffing. The table below shows the cost per fiscal year.

**COST OF FIREFIGHTERS FOR ONE ENGINE AND ONE TRUCK COMPANY (including Captains and Engineers)**

	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
City	\$1,215,500	\$3,050,520	\$3,202,380	\$3,480,570	\$3,708,030	\$3,936,000
Grant	\$ 227,700	\$ 885,480	\$ 733,620	\$ 455,439	\$ 227,970	\$ 0
<b>STATION TOTAL</b>	<b>\$1,443,200</b>	<b>\$3,936,000</b>	<b>\$3,936,000</b>	<b>\$3,936,000</b>	<b>\$3,936,000</b>	<b>\$3,936,000</b>

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

If awarded the SAFER Grant and once the emergency response units are placed into service, San Diego Fire-Rescue will conduct an outreach effort to include the media and key stakeholders.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

The key stakeholders include the City of San Diego and the citizens and visitors of San Diego.

Jarman/Olen

Staff: Brian Fennessy - (619) 533-4407  
William J. Gersten- Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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

\* ITEM-112: Grant Funding for FY 2008 City Heights, Bud Kearns, and Tierrasanta Pool Programs. (City Heights, Balboa Park, and Tierrasanta Community Areas. Districts 3 and 7.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-428) ADOPTED AS RESOLUTION R-303242

Authorizing the Mayor, or designee, to make application to the State of California's Clean Air, Safe Parks, and Coastal Protection Act of 2002, Roberti-Z'berg-Harris Per Capita Block Grant Program (RZH Grant) for \$108,000 for the City Heights and Bud Kearns Swimming Pool Programs and \$80,399 for the Tierrasanta Swimming Pool Programs (Projects).

Authorizing the Mayor, or designee, to take all necessary actions to secure the RZH Grant funds for the Projects;

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

Authorizing the Mayor, or his designee, to make an application to Price Charities (Price Charities Grant) to secure a \$30,000 grant for the City Heights Swimming Pool Programs;

Authorizing the Mayor, or designee, to take all necessary actions to secure the Price Charities Grant funds for the Projects;

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

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

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

**STAFF SUPPORTING INFORMATION:**

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 (bond)." Based upon State Department of Finance population figures as of January 1, 2002, the City of San Diego will receive a total of \$11,063,430 on a Per Capita basis from the bond. On December 8, 2003, the Mayor and City Council approved Resolution R-298699, which included a distribution of the Per Capita/RZH 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/RZH Per Capita Grant Program. While most of the bond funding is restricted to use on capital improvements, the RZH funding can be used for innovative recreational programming. Price Charities is committed to allocating a substantial portion of its charitable dollars to revitalizing City Heights, a low-income community in San Diego and is currently offering the City a \$30,000 grant. Since 1994, Price Charities has worked with the community of City Heights to build an "Urban Village" in the core of the community.

This action authorizes the Mayor, or his representative, to apply for \$108,000, a portion of the 2002 Resources Bond RZH Per Capita funding allocated to Council District 3 and \$80,399, a portion of the 2002 Resources Bond RZH Per Capita funding allocated to Council District 7 and to accept grant funding from Price Charities for \$30,000. The funds will provide one-time operating and maintenance funds, including staff costs, for City Heights Pool to remain open for an 11-week period, Bud Kearns Pool to remain open for an 8.5-week period and Tierrasanta Pool to remain open for a 10-week period.

FISCAL CONSIDERATIONS:

Due to budget constraints, these pools were scheduled to be closed for fourteen weeks this fiscal year. With this action, Tierrasanta Pool will be able to reopen on December 17, 2007. City Heights Pool will reopen on February 11, 2008. Bud Kearns Pool will reopen on January 7, 2008.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The community has actively pursued funds to keep City Heights, Bud Kearns and City Heights Pools open to the public despite City budget constraints which necessitated closure. Council Members Atkins and Madaffer committed Council District 3 and Council District 7 grant funds, Price Charities awarded a grant to help pay for costs to keep the pools open.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Stakeholders: CD 3 and CD 7 constituents

Impact:

Tierrasanta Pool to remain open from December 17, 2007 to February 24, 2008 (CD 7 Funds).

City Heights Pool to remain open from February 11 to March 15, 2008 (Price Grant).

City Heights Pool to remain open from March 16 to April 27, 2008 (CD 3 Funds).

Bud Kearns Pool to remain open from January 7 through March 5, 2008 (CD 3 Funds).

LoMedico/Goldstone

Staff: Isabel Vargas - (619) 685-1308  
Kimberly Ann Davies - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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

\* ITEM-113: Initiation of a Community Plan Amendment to the Scripps Miramar Ranch Community Plan. (Scripps Miramar Ranch Community Area. District 5.)

**COUNCILMEMBER MAIENSCHHEIN'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-416) ADOPTED AS RESOLUTION R-303243

Initiating the amendment to the Progress Guide and General Plan to incorporate the Community Plan Amendment to reclassify Scripps Ranch Boulevard from Carroll Canyon Road to Aviary Drive from a four-lane major to a two-lane collector;

Declaring that this activity is exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

**SUPPORTING INFORMATION:**

This is a request to initiate an amendment to the Scripps Miramar Ranch Community Plan to reclassify Scripps Ranch Boulevard from Carroll Canyon Road to Aviary Drive from a four-lane major to a two-lane collector street. If the initiation is approved, the City Council will consider the Community Plan Amendment in the future. This amendment, if approved, will allow staff to move forward with construction of a permanent landscaped median in the center lane of Scripps Ranch Boulevard from Carroll Canyon Road to Aviary Drive, with two lanes, 8-foot parking and bike lanes on both sides.

The plan amendment initiation process is identified in Section 122.0103(a) of the Land Development code, which states that the City Council may initiate an amendment to a land use plan by adopting a resolution. The plan amendment would focus on revising the Transportation Element of the Scripps Miramar Ranch Community Plan.

FISCAL CONSIDERATIONS:

Costs associated with processing the Community Plan Amendment will come from General Fund money budgeted for the Community Planning Work Program in the City Planning and Community Investment Department.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None with this action.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The Scripps Ranch Planning Group supports the initiation.

Ekard/Witmond

Staff: Megan Ekard - (619) 533-6479  
Shirley R. Edwards – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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



ITEM-114: Creation of Conflict of Interest Code for Managed Competition Independent Review Board (MCIRB).

(See Report from the City Attorney 11/20/2007. Citywide.)

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-457)            ADOPTED AS RESOLUTION R-303260

Adopting a Conflict of Interest Code for the Managed Competition Independent Review Board (MCIRB), consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of the Conflict of Interest Code for the MCIRB as adopted be placed on file with the Office of the City Clerk;

Declaring that the persons whose positions are designated in the Conflict of Interest Code for the MCIRB shall file their statements of economic interest with the City Clerk;



Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the MCIRB becomes effective upon the date of final passage of this resolution.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:06 p.m. - 6:16 p.m.)

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

\* ITEM-115: Appointments and Reappointment to the Qualcomm Stadium Advisory Board.

(See memorandum from Mayor Sanders dated 11/13/2007, with resumes attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-434) ADOPTED AS RESOLUTION R-303245

Council confirmation of the following appointments and reappointments by the Mayor of the City of San Diego, to serve as members of the Qualcomm Stadium Advisory Board, for terms ending as indicated:

<u>NAME</u>	<u>TERM ENDING</u>
David Baron (Normal Heights, District 3) (Replacing Harold Lewis, who resigned)	January 1, 2010
Carlos Vasquez (Otay Mesa, District 8) (Replacing Robert Brownlie, who resigned)	January 1, 2012
William Jeffrey (Downtown, District 2) (Reappointment)	January 1, 2010

Declaring that Carlos Vasquez shall begin his four year term on January 1, 2008.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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

ITEM-116: Appointment to the Parking Advisory Board.

(See memorandum from Mayor Sanders dated 11/13/2007, with resumes attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-436) ADOPTED WITH DIRECTION AS  
RESOLUTION R-303246

Council confirmation of the appointment by the Mayor of the City of San Diego to serve as members of the Parking Advisory Board:

<b><u>NAME</u></b>	<b><u>CATEGORY</u></b>	<b><u>TERM ENDING</u></b>
Mike McNeill (Pacific Beach, District 2)	Pacific Beach Community Parking District	December 31, 2009
Richard Stegner (Old Town, District 5)	Old Town Community Parking District	December 31, 2009
Peter Wagener (La Jolla, District 1)	La Jolla Community Parking District	December 31, 2009

Declaring that each of the above members shall begin their two year term on January 1, 2008.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 10:56 a.m. – 10:57 a.m.)

MOTION BY FRYE TO ADOPT WITH DIRECTION TO STAFF TO HAVE A DISCUSSION OF THE CONFLICT OF INTEREST CODE IN JANUARY 2008. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-117: Reappointment to Solid Waste Local Enforcement Agency Hearing Panel.

(See memorandum from William E. Prinz dated 10/9/2007.)

**COUNCIL PRESIDENT PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-426)            ADOPTED AS RESOLUTION R-303247

Council confirmation of the reappointment by the Council President of David Ferguson, to continue serving as a member of the Local Enforcement Agency Hearing Panel, for a term ending January 1, 2011.

FILE LOCATION:            MEET

COUNCIL ACTION:            (Time duration: 10:38 a.m. – 10:54 a.m.)

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

\* ITEM-118: Appointment to the Centre City Development Corporation Board of Directors.

(See memorandum from Mayor Sanders dated 11/13/2007.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-435)            ADOPTED AS RESOLUTION R-303248

Council Confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Board of Directors of the Centre City Development Corporation, for a term ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
William Shaw (La Jolla, District 1) (Replacing Wayne Rafflesberger, whose term expires)	General Business	May 1, 2010

FILE LOCATION:            MEET

COUNCIL ACTION:            (Time duration: 10:38 a.m. – 10:54 a.m.)

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

\* ITEM-119: Appointments to the Managed Competition Independent Review Board.

(See memorandums from Mayor Sanders dated 11/16/2007 and Council President Peters dated 11/27/2007.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2008-447) ADOPTED AS RESOLUTION R-303249

Council confirmation of the following appointments by the Mayor of the City of San Diego, to serve as members of the new Managed Competition Independent Review Board, for terms ending as indicated:

<b><u>NAME</u></b>	<b><u>CATEGORY</u></b>	<b><u>TERM ENDING</u></b>
Desa Burton (Rancho Bernardo, District 5) (Appointment)	Private citizen	November 1, 2009
Charles Kim, Jr. (Golden Hill, District 8) (Appointment)	Private citizen	November 1, 2009
Murray Galinson (La Jolla, District 1) (Appointment)	Private citizen	November 1, 2010
Faye Wilson (Rancho Bernardo, District 5) (Appointment)	Private citizen	November 1, 2010

Subitem-B: (R-2008-483) ADOPTED AS RESOLUTION R-303250

Council designating Penni Takade, Deputy Director of the Office of the Independent Budget Analyst, as Council staff designee for the Managed Competition Independent Review Board.

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

**FILE LOCATION:** SUBITEM A: MEET  
SUBITEM B: MEET

**COUNCIL ACTION:** (Time duration: 10:38 a.m. – 10:54 a.m.)

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

\* ITEM-120: Settlement of the Personal Injury Claim of Adam Charles Lewis.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-73) ADOPTED AS RESOLUTION R-303251

A Resolution approved by the City Council in Closed Session on Tuesday, 9/11/2007, by the following vote: Peters-not present; Faulconer-yea; Atkins-yea; Young-yea; Maienschein-not present; Frye-yea; Madaffer-yea; Hueso-yea.

Authorizing the City Auditor and Comptroller to issue a check in the sum of \$150,000 made payable to Adam Lewis and Casey Gerry Schenk Francavilla Blatt & Penfield, LLP in full settlement of the lawsuit and of all claims;

Authorizing the City Council to pay the sum of \$150,000 from the Public Liability Fund 81140.

**STAFF SUPPORTING INFORMATION:**

The proposed settlement would resolve all claims brought by Adam Charles Lewis.

**FISCAL CONSIDERATIONS:**

Settlement will be paid from the Public Liability Fund No. 81140.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item was heard in closed session on September 11, 2007 the City Council approved the settlement amount of \$150,000.00. City Council voted 6 to 0 to approve. The motion was made by Councilmember Atkins and seconded by Councilmember Madaffer. Council President Peters and Councilmember Maienschein were absent.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Aud. Cert. 2800383.

Bych/Goldstone

Staff: Mike Gomez – (619) 236-7096  
Bonny Hsu – Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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



\* ITEM-121: Settlement of the Personal Injury Claim of Jose Antero Bautista et. al.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-474)                      ADOPTED AS RESOLUTION R-303252

A Resolution approved by the City Council in Closed Session on Tuesday, July 31, 2007, by the following vote: Peters-not present; Faulconer-yea; Atkins-yea; Young-yea; Maienschein-not present; Frye-yea; Madaffer-yea; Hueso-not present.

Authorizing the City Auditor and Comptroller to issue checks totaling the sum of \$60,000 made payable to Jose Antero Bautista and the Law Offices of Britson & Cohen and various payees, in full settlement of the lawsuit and of all claims;

Authorizing the City Council to pay the sum of \$60,000 from the Public Liability Fund 81140.

**STAFF SUPPORTING INFORMATION:**

The proposed settlement would resolve all claims brought by Jose Antero Bautista, et al.

**FISCAL CONSIDERATIONS:**

Settlement will be paid from the Public Liability Fund.

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

This item was heard in closed session on July 31, 2007, the City Council approved the settlement amount of \$60,000. City Council voted 5 to 0 to approve. The motion was made by Councilmember Madaffer and seconded by Councilmember Atkins. Council President Peters and Councilmembers Maienschein and Hueso were absent.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Aud. Cert. 2800403.

Goldstone

Staff: Mike Gomez – (619) 236-7096  
Michael Herrin – Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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

\* ITEM-122: List of City Owned Designated Open Space Parcels to be Classified as Dedicated Open Space Parcels Under SB 373-Kehoe.

(See Report to the City Council No. 07-196.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-488 Cor. Copy) ADOPTED AS RESOLUTION R-303253

Declaring that the City-owned open-space lands listed in Exhibit "A" to the Declaration of the Dedication of Land, are set aside and dedicated in perpetuity for park and recreational purposes;

Declaring that the City Council of San Diego specifically reserves the authority to grant public service easements through the dedicated property so long as such easements do not significantly interfere with the park and recreational use of the property;

Declaring that this activity is not a “project” and therefore not subject to CEQA per CEQA Guidelines Section 15060(c)(3).

**STAFF SUPPORTING INFORMATION:**

The cost to the City of San Diego to use its normal process of converting designated open space to dedicated open space would exceed \$1 million. The passage of SB 373 allows the Legislature to expedite the conversion. Additionally, it will provide the protection to the open space land that was always intended and extend the protection afforded by the NCCP Act beyond the 50 years memorialized in the Implementing Agreement.

Dedication of city open space lands may be accomplished via a city ordinance or via statute of the state Legislature. A lack of available city funding over more than a decade has severely limited the number of acres that could be converted from designated to dedicated open space status, reducing the protection of the parcels. In 1997, the City of San Diego entered into a 50-year implementing agreement with the California Department of Fish and Game and the United States Fish and Wildlife Service that specifically references community open space lands that include canyons, Landscape Maintenance Districts and open space parcels throughout the City.

The list of properties SB 373 and this resolution will be protecting totals over 6,600 acres, including 600 plus acres in urban canyons around the City.

All of the identified urban canyons underwent a public vetting process and were approved by the Park and Recreation Board in 1992. SB 373 also provides dedicated status to over 6,000 acres in three regional parks - Mission Trails Regional Park, Otay Valley Regional Park and Los Peñasquitos Canyon Reserve.

**FISCAL CONSIDERATIONS:**

Significant fiscal savings.

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

SB 373 was included within the City of San Diego's 2007 Legislative Package and endorsed unanimously by the Rules Committee. The 2007 Legislative Package was approved unanimously by Council on February 6, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Informational meetings with the Marian Bear Memorial Park Advisory Group, Los Peñasquitos Canyon Preserve Advisory Group and the Mission Trails Regional Park CAC.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: -

Nelson/Dubick

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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

**NOTE:** This item is being reconsidered at Councilmember Frye's request to recuse herself from the vote taken on Monday, October 29, 2007, Item 151, to avoid any possible appearance of a conflict of interest.

\* ITEM-123: Reconsideration of the vote taken on Monday, October 29, 2007, Authorizing AKT Certified Public Accountants, LLP, Amendment No. 1 for Pay for Performance and Bid to Goal Programs.

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-482) ADOPTED AS RESOLUTION R-303279

Reconsider the vote taken on Monday, October 29, 2007, Item 151, Authorizing AKT Certified Public Accountants, LLP, Amendment No. 1 for Pay for Performance and Bid to Goal Programs:

MOTION BY FAULCONER TO ADOPT THE RESOLUTION AS AMENDED TO REQUIRE CITY COUNCIL APPROVAL BEFORE THE MAYOR EXECUTES FUTURE EXTENSIONS. TO ACCEPT COUNCIL MEMBER FRYE'S SUGGESTION TO FORWARD AUDITS TO THE AUDIT COMMITTEE AND TO THE CITY COUNCIL. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

**SUPPORTING INFORMATION:**

1. Councilmember Frye was unaware at the time of her vote on October 29, 2007, that AKT Certified Public Accountants, LLP, is the new business name of the firm for which her accountant works.
2. Councilmember Frye requests reconsideration to avoid any possible appearance of a conflict of interest.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

CONSENT MOTION BY MADAFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-recused, Madaffer-yea, Hueso-yea.

\* ITEM-124: Saint James by-the-Sea Episcopal Church Day.

**COUNCIL PRESIDENT PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-411) ADOPTED AS RESOLUTION R-303254

Commending Saint James by-the-Sea Episcopal Church for its long-standing tradition and service to the community of San Diego;

Proclaiming November 9, 2007, to be “Saint James by-the-Sea Episcopal Church Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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

\* ITEM-125: Friends of the Logan Heights Library Day.

**COUNCILMEMBER HUESO’S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-446) ADOPTED AS RESOLUTION R-303255

Proclaiming November 17, 2007, to be “Friends of the Logan Heights Library Day” in the City of San Diego in recognition of their dedication to improve library resources and literacy.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:54 a.m.)

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

\* ITEM-126: 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-2008-275)            ADOPTED AS RESOLUTION R-303256

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: 10:38 a.m. – 10:54 a.m.)

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

\* ITEM-127: 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-2008-297)            ADOPTED AS RESOLUTION R-303257

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: 10:38 a.m. – 10:54 a.m.)

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



\* ITEM-128: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-361)                      ADOPTED AS RESOLUTION R-303258

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: 10:38 a.m. – 10:54 a.m.)

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

\* ITEM-129: Declaring a Continued State of Emergency Regarding the Wildfires.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-480)                      ADOPTED AS RESOLUTION R-303259

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: 10:38 a.m. – 10:54 a.m.)

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



ITEM-330: Third Amended and Restated Agreement with Hawkins, Delafield & Wood LLP for General Disclosure Counsel Services.

(See Report from the City Attorney dated 11/6/2007.)

**CITY ATTORNEY'S RECOMMENDATION:**

Introduce and adopt the following ordinance:

(O-2008-38 Cor. Copy2)      INTRODUCED AND ADOPTED AS  
ORDINANCE O-19695 (NEW SERIES)

Introduction and adoption of an Ordinance accepting the Report of the City Attorney;

Authorizing and directing the City Auditor and Comptroller to appropriate and to transfer up to \$369,500 from the City's General Fund Appropriated Reserve to the Citywide Program Expenditure (Dept. 601, Fund 100). The City Auditor and Comptroller is further authorized and directed to expend \$369,500 from Citywide Program Expenditure (Dept. 601, Fund 100), General Fund (100), and an amount not to exceed \$130,000 from various Non-General Funds, Account 4151, \$4,450.00 Golf Course Fund 41400, Dept. 730, \$350 Environmental Protection Fund 41200, Dept. 750, \$1,750 Waste Reduction & Enforcement Fund 41200, Dept. 751, \$3,850 Refuse Disposal Fund 41200, Dept. 752, \$800 Resource Management Fund 41200, Dept. 753, \$400 Collection Services Fund 41200, Dept. 754, \$750 Waste Reduction and Enforcement Fund 41210, Dept. 755, \$4,900 Collection Services Fund 41210, Dept. 757, \$150 Environmental Protection Fund 41210, Dept. 758, \$600 Resource Management Fund 41210, Dept. 759, \$39,550 Water Fund 41500, Dept. 760, \$42,550 MWWD-Administration Fund 41506, Dept. 776, \$900 Airports Fund 41100, Dept. 720, \$5,600 ECP-Water & Sewer Design Fund 50050, Dept. 850, \$2,100 E&CP Water Wastewater Field Eng. Fund 50050, Dept. 5431, \$21,800 Developmental Service Enterprise Fund 41300, Dept. 1300 for the purpose of providing funds for the above-referenced services.

**SUPPORTING INFORMATION:**

In the Vinson & Elkin LLP Report entitled "The City of San Diego, California's Disclosures of Obligation to Fund the San Diego City Employees' Retirement System and Related Disclosure Practices 1996-2004 with Recommended Changes to the Municipal Code" dated September 16, 2004 (Report), it was recommended that the City retain a law firm to serve as the City's General Disclosure Counsel in order to provide for "continuity in the City's disclosure materials and a greater accountability on the part of disclosure counsel." In March 2004, the City retained the law firm of Hawkins, Delafield & Wood LLP (Hawkins) to serve as the City's general disclosure counsel. In that capacity, Hawkins has provided expert securities law advice to City staff regarding the requirements of securities laws for private placements and public offerings, continuing disclosure agreements and other disclosure matters. In addition, Hawkins has facilitated the training of City officials and staff with regard to the requirements of the federal securities laws. Finally, Hawkins also participates as a member of the Disclosure Practice Working Group under the requirements of Ordinance O-19320 (adopted November 11, 2004).

**FISCAL CONSIDERATIONS:**

The City shall compensate Hawkins Delafield & Wood LLP based on its hourly rates for the disclosure counsel services. This Third Amended and Restated Agreement increases the ceiling for such compensation by \$500,000. Accordingly, the maximum amount to be paid under the contract is \$1,250,000, including reasonable out-of-pocket expenses. Authorize the City Auditor and Comptroller to appropriate and transfer \$369,500 from the Unallocated Reserves (Fund 100) to Citywide Program Expenditures (Dept. 601, Fund 100). Authorize the City Auditor and Comptroller to expend \$369,500 from Citywide Program Expenditure (Dept 601), General Fund (100) and \$130,500 from various non-General Funds as detailed in line of accounting for the Third Amendment to the Agreement with Hawkins Delafield & Wood LLP for General Disclosure Counsel Services.

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

The Council has previously approved the agreement, as amended, with Hawkins, Delafield & Wood LLP.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** None.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

All City departments.

Aud. Cert. 2800285.

Staff: Mark Blake, Chief Deputy City Attorney - (619) 533-5618

**NOTE:** Today's action is the second public hearing and introduction and adoption of the Ordinance. See Item 330 on the docket of Tuesday, November 13, 2007, for the first public hearing.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:41 p.m. - 4:43 p.m.)

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



ITEM-331: Two actions related to Pacific Highlands Ranch Public Facilities Financing Plan and Facilities Benefit Assessment Fiscal Year 2008. (Pacific Highlands Ranch Community Plan Area. District 1.)

(See Report to the City Council No. 07-151, not available at Committee; See Report to the City Council No. 07-145. Pacific Highlands Ranch Public Facilities Financing Plan and Facilities Benefit Assessment Fiscal Year 2008, September 12, 2007 DRAFT.)

(First Public Hearing was held on October 8, 2007, Item 150; Second Public Hearing was held on November 13, 2007.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2008-244 Corr. Copy)           ADOPTED AS RESOLUTION R-303261

Resolution of the Council of the City of San Diego designating an Area of Benefit in Pacific Highlands Ranch and the boundaries thereof, confirming the description of public facilities projects, the community financing plan and capital improvement program with respect to public facilities projects, the method for apportioning the costs of the public facilities projects among the parcels within the area of benefit and the amount of the facilities benefit assessments charged to each such parcel, the basis and methodology for assessing and levying discretionary automatic annual increases in facilities benefit assessments, and proceedings thereto, and ordering of proposed public facilities project in the matter of one facilities benefit assessment area.

Subitem-B: (R-2008-245 Cor. Copy)           ADOPTED AS RESOLUTION R-303262

Resolution of the Council of the City of San Diego approving the Development Impact Fee Schedule for properties within Pacific Highlands Ranch.

**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**

On 9/19/2007, LU&H voted 4 to 0 to approve. (Councilmembers Atkins, Young, Madaffer and Hueso voted yea.)

**OTHER RECOMMENDATIONS:**

The Carmel Valley Planning Group (CVPG) on July 10, 2007, voted (11-0) in support of the proposed financing plan with qualifications.

**SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

1) Adopt a Resolution of Intention to designate an area of benefit for a Facilities Benefit Assessment (FBA) in Pacific Highlands Ranch; 2) Adopt a Resolution of Designation for the FBA in Pacific Highlands Ranch; and 3) Approve the setting of Development Impact Fees (DIF) consistent with the FBA in Pacific Highlands Ranch for those developments which have never been assessed or otherwise agreed to pay an FBA.

**STAFF RECOMMENDATION:**

Rescind the existing FBA and DIF and establish new FBA and DIF for Pacific Highlands Ranch.

**EXECUTIVE SUMMARY:**

Council Policy 600-36 calls for an annual review of all existing FBA. This is the annual review and will serve as the basis for the Capital Improvement Program (CIP) as it pertains to programming FBA funds in Pacific Highlands Ranch. The most recent review of the Pacific Highlands Ranch PFFP and FBA was approved by Council, passed by the Mayor on October 18, 2007, by Resolution R-303042.

The FY 2008 PFFP details the public facilities that will be needed through the ultimate development of Pacific Highlands Ranch and for the projected population at full community development. The required facilities include a library, fire station, police station (located in Carmel Valley), a community park and two neighborhood parks, numerous trails, and major transportation facilities.

No change is proposed for the assessments of FY 2008:

<u>LAND USE</u>	<u>CURRENT ASSESSMENT</u>	<u>PROPOSED ASSESSMENT</u>
SINGLE FAMILY UNIT	\$69,118	\$69,118
MULTI FAMILY UNIT	\$48,384	\$48,384
DEL MAR HIGHLANDS ESTATES	\$47,002	\$47,002
VILLAGE ACRES	\$557,652	\$557,652
INSTITUTIONAL ACRES	\$198,273	\$198,273
EMPLOYMENT CENTER ACRES	\$371,765	\$371,765

Development in Pacific Highlands Ranch is limited by a transportation phasing plan until certain improvements are assured. The Public Facilities Financing Plan FY 2008 has prioritized the FBA funding so that all of the projects required for the 1,900 dwelling units associated with the transportation phasing plan are funded with the assessments of those 1,900 dwelling units.

FISCAL CONSIDERATIONS:

Adoption of the designated area of benefit will continue to provide a funding source for the public facilities identified in the Pacific Highlands Ranch Public Facilities Financing Plan FY 2008.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Land Use and Housing Committee voted unanimously, September 19, 2007, to approve the Pacific Highlands Ranch Public Facilities Financing Plan for FY 2008. On October 8, 2007 the City Council voted unanimously to approve the PFFP for FY 2008. A resolution of intention was also passed on October 8, 2007 to set the time and place for a public hearing on November 19, 2007, however a change in venue and time for the November 19th Council meeting requires a new resolution of intention for a meeting on December 4, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On July 10, 2007 the Carmel Valley Planning Group (CVPG) voted (11-0) in support of the proposed financing plan, but with qualifications that have been addressed prior to Council approval of the plan.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

All property owners with remaining new development are listed on the Pacific Highlands Ranch Assessment Roll, beginning on page 225.

These property owners will be mailed a notice of the public hearing and a copy of the financing plan. The owners will have liens placed upon their property and will be required to pay an FBA upon any building permit issuance. Redevelopment that increases the intensity of existing uses may be subject to an impact fee.

Anderson/Gabriel



**NOTE:** This plan is a financing measure and is exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

Staff: Frank January – (619) 533-3699  
Elizabeth C. Coleman – Deputy City Attorney

**FILE LOCATION:** STRT-FB-22-FY08 (33)

**COUNCIL ACTION:** (Time duration: 5:33 p.m. - 5:34 p.m.)

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

ITEM-332: FY 2008 Funding for Senior Transitional Housing Program. (Citywide.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-456) ADOPTED AS RESOLUTION R-303263

Authorizing the acceptance, appropriation, and expenditure of funds in the amount of \$282,000 from the Redevelopment Agency's FY 2008 Horton Plaza Low and Moderate Income Housing Fund;

Authorizing the Mayor, or designee, to negotiate and execute an agreement with Senior Community Centers to expend an amount not to exceed \$282,000 from the FY 2008 Horton Plaza Low and Moderate Income Housing Fund for the operation of the Program, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend an amount not to exceed \$282,000 from the FY 2008 Horton Plaza Low and Moderate Income Housing Fund for the operation of the Program, contingent upon certification of funds availability by the City Auditor and Comptroller;

Declaring that this action does not constitute a “project” as defined in CEQA Guidelines Section 15378 as determined in a preliminary review as required under CEQA Guidelines Section 15060(c)(3).

**STAFF SUPPORTING INFORMATION:**

The Transitional Housing for Seniors Program ("Program") is sponsored by the City of San Diego to provide homeless seniors with vouchers to rent rooms at housing facilities in downtown and surrounding neighborhoods. The Corporation has provided funding support to the Program for the past six years with expenditures from the Centre City or Horton Plaza Low and Moderate Income Housing Fund. The City is requesting \$282,000 to fund leasing costs for 37 rooms and program administration for the 12-month period of July 2007 to June 2008.

**FISCAL IMPACT:**

No impact on the General Funds from this action. Funds are available from Redevelopment Agency's FY 2008 Horton Plaza Low and Moderate Income Housing Fund in the amount of \$282,000.

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

Reference Redevelopment Agency Action (R-04183) approved on July 17, 2007.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** None.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

The program is managed by the City of San Diego City Planning and Community and Investment, which has entered into a lease contract with Senior Community Centers of San Diego, a non-profit service provider, to lease rooms for homeless seniors.

Kessler/Anderson

Staff: Sharon Johnson - (619) 533-6525  
Alex W. Sachs - Deputy City Attorney

**NOTE:** See the Redevelopment Agency Agenda of December 4, 2007, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:35 p.m. - 5:35 p.m.)

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



ITEM-333: Cortez Hill Streetscape Rehabilitation Project Request to Bid. (Cortez Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment Project Community Area. District 2.)

(See Centre City Development Corporation Report CCDC-07-40/CCDC-07-22.)

**CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-324) ADOPTED AS RESOLUTION R-303264

Finding and determining that the construction of Cortez Hill Streetscape Rehabilitation Project (Project) for which the Agency proposes to pay is of benefit to the Project Area;

Finding and determining that no other reasonable means for financing the Project are available to the community and that the Project will assist in eliminating one or more blighting conditions inside the Project Area, and that the Project is consistent with the Centre City and Horton Plaza Implementation Plans for July 2004 - 2009, on file in the Office of the Secretary to the Agency pursuant to California Health and Safety Code Section 33490, all as described in Attachment B;

Determining that the Project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15302, Replacement or Reconstruction of existing structures and facilities.

**SUPPORTING INFORMATION:**

Cortez Hill is a unique residential neighborhood that has evolved into an exciting mix of small businesses, Victorian homes and apartment-style dwellings. To complete the ambiance and convenience of a walkable residential neighborhood that Cortez Hill offers downtown, the need for a functional and aesthetically pleasing streetscape is required.

Replacing deteriorating sidewalks, many from the 1920's, and removing and planting trees are a natural step to revitalize the neighborhood. Sixteen blocks were surveyed as denoted in Attachment A. After assessing the 16 blocks, six blocks at the northeast corner of Cortez Hill were selected due to the severity of the deteriorating sidewalks. The focus is on the blocks that were unlikely to be redeveloped because of the existence of historic apartment buildings.

Over 25,000 square feet of sidewalk, pedestrian ramps, curbs and driveways will be replaced within the six block area. Seven trees will be removed and replaced due to diseased and server root damage (one coral tree, one fan palm and five queen palms); 24 new trees will be planted (six queen palms and 18 jacarandas); 12 new pedestrian ramps will be installed; 14 historic sidewalk cement date stamps will be preserved and 14 litter receptacles will be installed.

**FISCAL CONSIDERATIONS:**

Funds are available in the FY 2008 Budget under "Cortez Sidewalk Gap Improvement" in the amount of \$785,000. The contract award amount will not exceed \$785,000.

**CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:**

On September 19, 2007, the Corporation Board voted unanimously for the Project.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

On September 13, 2007, the Centre City Advisory Committee (CCAC) voted unanimously for the Project.

KEY STAKEHOLDERS AND PROJECT IMPACTS:

The Corporation sponsored a community outreach meeting that was held in the Cortez neighborhood in August 2006. The Corporation presented the Project and discussed the methodologies that were utilized and announced which blocks would be included in the Project. There were over 75 Cortez residents and business owners present and positive feedback for the proposed Project was received.

Diekman/Graham

Staff: Susan Diekman - (619) 533-7142  
Alex W. Sachs - Deputy City Attorney

**NOTE:** See the Redevelopment Agency Agenda of December 4, 2007, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:55 p.m. - 4:56 p.m.)

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



ITEM-334: Soledad Mountain Road Emergency Repair. (Pacific Beach Community Area. District 2.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-449 Cor. Copy 2, Rev. Copy)

ADOPTED AS AMENDED  
AS RESOLUTION R-303265

Amending the Fiscal Year 2008 Capital Improvement Program Budget by adding CIP-52-805.0, Soledad Mountain Road Emergency Repair (Project);

Amending the Fiscal Year 2008 Capital Improvements Program Budget in CIP-52-805.0, Soledad Mountain Road Emergency Repair, by increasing the budget amount by \$20,000,000, contingent upon the City Auditor and Comptroller first certifying that funds are, or will be, on deposit with the City Treasurer;

Authorizing City Auditor and Comptroller to de-appropriate an amount not to exceed \$3,500,000 in Fund No. 30300, TransNet, from the following CIPs:

CIP-59-021.0 Transportation Grant Matches	\$ 930,000
CIP-13-502.0 Fashion Valley Road Restoration	\$ 820,000
CIP-68-006.0 Guardrails – Citywide	\$ 250,000
CIP-68-600.7 Carmel Country Rd., Clairemont Dr., Zest Street Guardrails	\$ 250,000
CIP-58-203.0 Taylor Street Bikeway	\$ 250,000
CIP-29-692.0 Public Roads Supporting Park Access	\$ 250,000
CIP-61-001.0 Traffic Control/Calming Measures	\$ 200,000
CIP-68-011.0 Cooperative Signal Projects	\$ 200,000
CIP-63-002.0 Obsolete Controller Replacement	\$ 150,000
CIP-52-533.0 Mission Beach Boardwalk Widening	\$ 100,000
CIP-52-523 .3 Voltaire Street Bridge Rehabilitation	\$ 100,000

Authorizing the appropriation and expenditure of an amount not to exceed \$3,500,000 from Fund No. 30300, TransNet, CIP-52-805.0, Soledad Mountain Road Emergency Repair, solely and exclusively, for the purpose of providing funds for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer an amount not to exceed \$2,000,000 from the General Fund appropriated reserves, Fund No. 100 Dept. No. 602, to Fund No. 630221, General Fund Contributions to the CIP;

Authorizing the appropriation and expenditure of an amount not to exceed \$2,000,000 in Fund No. 630221, General Fund Contributions to the CIP, CIP-52-805.0, solely and exclusively, for the purpose of providing funds for Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to de-appropriate an amount not to exceed \$1,350,000 in Fund 30307, Prop 42, from CIP-59-001.0, Annual Allocation-Resurfacing City Streets;

Authorizing the appropriation and expenditure of an amount not to exceed \$1,350,000 in Fund 30307, Prop 42, CIP-52-805.0, Soledad Mountain Road Emergency Repair, solely and exclusively, for the purpose of providing funds for Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the appropriation and expenditure of an amount not to exceed \$650,000 from Fund 30307, Prop 42, Unallocated Fund Balance Reserves, to CIP-52-805.0, Soledad Mountain Road Emergency Repair, solely and exclusively, for the purpose of providing funds for Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the Mayor, or his designee, to make application to, and take all necessary actions to secure funding from, the State and/or Federal government for grant funds for the completion of the Soledad Mountain Road Emergency Repair Project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to establish separate special interest bearing funds for the State and/or Federal grant funds;

Authorizing the Mayor, or his designee, to appropriate and expend additional grant funding sources in an amount not to exceed \$12,500,000 for the completion of CIP-52-805.0, Soledad Mountain Road Emergency Repair, contingent upon the City Auditor and Comptroller certifying fund availability and the appropriation does not result to an increase to the overall General Fund budget;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend grant funds in an amount not to exceed \$7,500,000 for the purpose of reimbursing previously incurred costs within Funds 30300, 630221, and 30307 for CIP-52-805.0, Soledad Mountain Road Emergency Repair, contingent upon the City Auditor and Comptroller certifying fund availability and the appropriation does not result to an increase to the overall General Fund budget;

Authorizing the City Auditor and Comptroller, upon direction from the administering department, to re-appropriate funds to the originating sources within Funds 30300, 630221, and 30307 as identified in resolutions 1, 3, & 5 above; or to return excess budgeted funds, if any, to the appropriate reserves;

Ratifying a sole source construction contract with Hazard Construction Company for CIP-52-805.0, Soledad Mountain Road Emergency Repair, in an amount not to exceed \$15,000,000, contingent upon the City Auditor and Comptroller first certifying that funds are, or will be, on deposit with the City Treasurer;

Declaring that this activity is exempt from CEQA pursuant to State CEQA Guidelines Section 15269(a).

**STAFF SUPPORTING INFORMATION:**

On October 3, 2007, a landslide occurred on Mt. Soledad. The landslide destroyed a large section of the 5700 block of Soledad Mountain Road and Desert View Drive Alley. The 5700 block of Soledad Mountain Road is located in the Pacific Beach Community Area of Council District 2. The road is heavily utilized as a through access from and to La Jolla. According to the Pacific Beach Community Plan, Soledad Mountain Road is classified as a 4-lane major street with approximately 8,470 average daily traffic volume. All public utilities within the landslide area were destroyed along with several private homes. The landslide prompted the closure of Soledad Mountain Road between Desert View Drive and Palomino Circle. On October 4, 2007, the City of San Diego declared a state of emergency related to the landslide and on October 8, 2007, Governor Arnold Schwarzenegger declared a state of emergency related to the landslide.

In view of the emergency status of this project, staff has been in contact with several contractors and professional consultants to study the landslide, develop designs to stabilize the area, and construct the work necessary for the Soledad Mountain Road Emergency Repair. Additionally, staff has been in touch with all dry utility companies impacted by the landslide and all such utilities will be restored along with the road repair. Design staff from Engineering & Capital Projects Department has already started the engineering survey and design plans for the road improvements, water & sewer facilities that were destroyed by the landslide.



Staff has been in contact with the California Department Office of Emergency Services (OES) to apply for State funding in view of Governor Arnold Schwarzenegger declaration of a state of emergency related to the landslide. In addition staff has been in contact with the Federal Emergency Management Administration (FEMA) with regard to federal funding due to the catastrophic landslide failure. The funding from OES and FEMA is contingent on the determination of the cause of the landslide. The roadway repairs are eligible for the emergency funds only if the damage from the landslide is a direct result of an approved natural disaster or catastrophic failure. Not all catastrophic failures are eligible since emergency funds do not apply to catastrophic failures from an internal cause or source, e.g., gradual and progressive deterioration or lack of proper maintenance.

This action will make available \$7,500,000 of the estimated \$20,000,000 total project cost. Partial funding of approximately \$7.5 million will be borrowed from the funding sources identified in the resolutions. Funds borrowed from CIP projects are not needed immediately in the projects. Funding borrowed will be returned to the sources once the construction of Soledad Mountain Road Emergency Repair is completed and funds are received from the State (Office of Emergency Services) OES and/or FEMA (Federal Emergency Management Administration).

The City will have to identify other funding options to complete the project in the event that FEMA and the State do not approve funding for the project. In addition, the City will evaluate other reimbursement options for the borrowed \$7.5 million.

Staff from Development Services Department (DSD) has reviewed the emergency project and determined that this project is exempt from CEQA pursuant to State CEQA Guidelines Section 15269(a) Emergency Projects. Staff will submit the project for a subsequent review by DSD for the design work to ensure compliance with CEQA for the full roadway restoration.

This action will enable staff to expedite the design and repair work for the public facilities on Soledad Mountain Road and Desert View Drive Alley.

**FISCAL CONSIDERATIONS:**

This action will make available \$7,500,000 of the estimated \$20,000,000 total project cost. The funds for this action are available in Fund 100, General Fund Appropriated Reserves, Fund 30300, TransNet, and Fund 30307, Prop. 42 Funds, as identified in the resolutions. TransNet funds will be borrowed from the CIP projects listed. These funds are not needed immediately in the projects. Funding borrowed will be returned to the projects once the construction of Soledad Mountain Road Emergency Repair is completed and funds are received from the State (Office of Emergency Services) OES and/or FEMA (Federal Emergency Management Administration) subject to determination of the cause of the landslide.

The City will have to identify other funding options to complete the project in the event that FEMA and the State do not approve funding for the project. In addition, the City will evaluate other reimbursement options for the borrowed \$7.5 million. The Mayor, or his designee, will identify the balance of \$12,500,000 from other sources. At this time, the City Comptroller is only able to certify the availability of \$7.5 million. All subsequent contracts will be executed via follow up Mayoral Action-1544s.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On October 4, 2007, the City of San Diego declared a state of emergency related to the landslide.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Community outreach efforts are continuous to keep the residents in the area informed about the landslide situation.

KEY STAKEHOLDERS:

The State of California Community members.

Boekamp/Jarrell

Aud. Cert. 2800390.

Staff: Marnell Gibson - (619) 533-5213  
Peter A. Mesich - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:35 p.m. - 6:05 p.m.)

MOTION BY FAULCONER TO ADOPT WITH ADDITIONAL LANGUAGE TO REQUIRE REPAYMENT TO THE CAPITAL IMPROVEMENTS PROGRAM FUNDS FROM WHICH THE MONEY WAS BORROWED. Second by Peters. Passed by the following vote: Peters-yea, Falconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-335: Award of an Agreement with American Traffic Solutions for the Red Light Photo Enforcement Program.

(See Report to the City Council No. 07-183 and Independent Budget Analyst Report No. 07-107.)

(Continued from the meeting of November 13, 2007, Item 332, at the request of Councilmember Madaffer, for further review.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-378 Rev.) ADOPTED AS AMENDED AS RESOLUTION R-303266

Authorizing the Mayor, or his designee, for and on behalf of the City of San Diego, to execute an Agreement with American Traffic Solutions as vendor for the Red Light Photo Enforcement program and approve the new contract, not to exceed \$4.5 million including \$365,000 in Fiscal Year 2008 for the three year contract, plus two option years to renew under the terms and conditions set forth in the Agreement;

Authorizing the Mayor, or his designee, to expend an additional \$65,000 for the existing photo enforcement vendor, ACS, to complete work on the existing contract in FY 08 from previously authorized contract amounts that were not utilized in previous fiscal years;

Authorizing the expenditure of an amount not to exceed \$65,000 from Fund 100, for the purpose of providing funds for the above referenced Project;

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

Declaring that this activity is exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301.

**STAFF SUPPORTING INFORMATION:**

The purpose of the Red Light Photo Enforcement Program (RLPE) is to prevent red light violations and reduce the possibility of collisions that may result from running red lights by modifying driver behavior. The current RLPE program has operated for over four years. Accident data analysis indicates that the number of accidents and violations attributable to red light running is trending downward since the inception of the program. For the first full three years of the program when we had a 0.5 second grace period, we had not seen a reduction in red light violations. However, we did see a 17% decline in red light running accidents at the eight existing red light photo locations and a 9% reduction citywide. Since the reduction of the grace period to a 0.1 second inherent delay in August of 2006, we have seen a 4% reduction in red light violations at the existing red light photo locations. In addition, red light running accidents have declined 62% at the existing red light photo locations and 12% citywide. Based upon the effectiveness of this method of enforcement, it is recommended that the City continue to utilize the program as just one tool to improve roadway safety.

The existing Red Light Photo Enforcement contract expires December 2007. Specifications were developed and the Purchasing Department produced and managed the Request for Proposals for the service. American Traffic Solutions Inc. was selected as the best able to support the needs of the City.

The terms of the agreement will be for three years plus two option years to renew. The City will pay ATS a fixed monthly fee of \$ 3,750 per site, per month, for installation and operation of the first 12 sites. The fixed monthly fee will be \$5,195 per site, for all additional sites. The contract also includes the option of relocating a site for \$50,000. The equipment at ten existing sites will be transitioned to the new vendor plus installing approximately five additional new sites. We anticipate minimal interruption in service between contracts.

In addition, we are requesting authorization to exceed the FY'08 expenditure limit for the current contract by \$65,000. The expenditure in each of the five calendar years of the current contract was estimated in 2002 to be \$1,300,000. In this fifth year of the contract, the majority of the expenditures have occurred in the later part of the year. Although we are not exceeding the original annual expenditure estimate of \$1,300,000, the majority of the expenditures have occurred in FY'08.

**FISCAL CONSIDERATIONS:**

The cost of the contract over five years is \$4,500,000.

**STAFF SUPPORTING INFORMATION:**

The cost of the RLPE program in FY'08, including contract costs and city staff is \$1,670,000. The cost of the program is offset by revenue received from citations.

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

On September 17, 2002, Council authorized the reinstatement of the Red Light Photo Enforcement (RLPE) Program. As part of the reinstatement of the program, Council directed staff to use a minimum red light "grace period" of 0.5 seconds before a citation is issued to the registered owner who failed to stop at a red light. On July 12, 2006, Council authorized the reduction of the 0.5 second grace period to the 0.1 second inherent delay.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

A RLPE Program web page has been posted on the City of San Diego's web site. The web page describes the program, contains a short video explaining how the program operates, and includes the proposed intersections for photo enforcement. Proposed intersections are posted on the City's website for at least thirty days prior to final decision making, to allow for public comment. In addition, letters are sent to the local community planning group for input. Engineering staff respond to any questions from the public generated through the website.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Vehicle drivers that run a red light will be impacted (receive a citation). Traffic accidents as a result of running red lights will be reduced, increasing motorist, pedestrian, and bicycle safety.

Jarrell/Haas/Maheu

Aud. Certs. 2800334 and 2800345.

Staff: Deborah Van Wanseele - (619) 533-3012  
Michael P. Calabrese – Chief Deputy City Attorney

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 4:43 p.m. - 4:48 p.m.)

MOTION BY ATKINS TO ADOPT WITH REQUIRED DIRECTION THAT A REPORT BE PROVIDED TO THE CHAIR OF PUBLIC SAFETY & NEIGHBORHOOD SERVICES BY MARCH 15, 2008. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-336: Navy Broadway Complex. Appeals of Environmental Determination. (Marina and Columbia Sub Areas of the Centre City Redevelopment Project. District 2.)

Matter of the Appeals of the Environmental Determination by the Centre City Development Corporation (“CCDC”) on July 25, 2007 regarding the Navy Broadway Complex project by 1) the San Diego Navy Broadway Complex Coalition and 2) Katheryn Rhodes and Conrad Hartsell. The appeals consist of challenges to the Determination that no further environmental review is required for the project under the California Environmental Quality Act (“CEQA”) (Pub. Resources Code, § 21000 et seq.).

The Navy Broadway Complex is a nearly 15-acre site bounded by Broadway to the north, Pacific Highway to the east and Harbor Drive to the West and south (E, F, and G streets, which are currently closed to public use, pass through the site). The property is owned by the U.S. Navy and is the subject of a 1992 Development Agreement with the City of San Diego, which provides for allowable development on the property of 3.25 million square feet of development including up to 1,650,000 square feet of office uses (including a new Navy Administration Building), 1,220,000 square feet of hotel uses, 25,000 square feet of “independent” retail uses (i.e., not associated with primary hotel or office uses), 55,000 square feet of public attraction (e.g., museum or similar) space, and a 1.9 acre Public Park at the foot of Broadway. The City Council certified an Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for this project on October 20, 1992 (“1992 Final EIR/EIS”). The project is located within the Centre City/Downtown Community Planning Area.

(See Center City Development Corporation Report No. CCDC-07-20.)

(Continued from the meeting of November 6, 2007, Item 335, at the request of the City Attorney, for further review.)

**NOTE:** Hearing open. No testimony taken.

**CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:**

Take **only one** of the following actions:

Subitem-A: (R-2008-495) DENIED APPEALS; ADOPTED AS  
RESOLUTION R-303267

Deny the appeals by the San Diego Navy Broadway Complex Coalition and  
Katheryn Rhodes and Conrad Hartsell, M.D.;

Uphold the environmental determination that no additional environmental review  
is necessary for the proposed Navy Broadway Complex project; and

Make an express finding that the information submitted by the appellants does not  
constitute substantial evidence of substantial changes in the project or the  
circumstances under which the project is undertaken, or new information of  
substantial importance concerning the project, that would suggest the project will  
result in new significant environmental effects or a substantial increase in the  
severity of previously identified significant effects;

Direct the City Attorney to prepare the appropriate resolutions according to  
Section 40 of the City Charter.

**or**

Subitem-B: NOTED AND FILED

Grant the appeal, set aside the environmental determination, and direct CCDC  
and/or DSD to conduct additional environmental review with direction or  
instruction to the City Council as deemed appropriate;

Direct the City Attorney to prepare the appropriate resolutions according to  
Section 40 of the City Charter.

**or**

Subitem-C: NOTED AND FILED

Grant the appeal and direct CCDC and/or DSD to prepare a new environmental document pursuant to Public Resources Section 21166. If Council chooses this alternative, CCDC respectfully requests that Council identify which subsection(s) of Section 21166 applies and what evidence exists that would lead to the preparation of a new environmental document;

Direct the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

**SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

San Diego City Council (City Council) denial of the appeals thereby upholding CCDC's determination that, pursuant to Public Resources Code section 21166, no additional environmental review is necessary for the proposed Navy Broadway Complex project.

**EXECUTIVE SUMMARY:**

In 1992, the City Council certified the 1992 Final EIR/EIS and adopted a Mitigation and Monitoring Program to govern the implementation of the Navy Broadway Complex project. In or around October 2006, the Development Services Department conducted a CEQA evaluation of the NBC project for CCDC that considered whether any of the criteria set forth in Public Resources Code section 21166, governing the preparation of subsequent or supplemental environmental impact reports, was present with respect to first proposed master plan submitted to CCDC for the implementation of the Navy Broadway Complex project. The review was limited to consideration of CEQA issues associated with the project and previously certified applicable environmental documents. After consideration of the project, the 1992 Final EIR/EIS, and several applicable certified environmental documents for other projects in the vicinity, DSD concluded that the Navy Broadway Complex project was adequately addressed in these prior environmental documents and that no additional environmental review was required. DSD's Section 21166 evaluation is summarized in a memorandum dated October 19, 2006 ("DSD CEQA Consistency Analysis"). On October 25, 2006, CCDC adopted the DSD CEQA Consistency Analysis. Two separate appeals were filed to the City Council challenging the DSD CEQA Consistency Analysis and CCDC's approval and adoption thereof. Following a public hearing, the City Council denied both appeals on January 9, 2007 and upheld the environmental determinations.



On July 2, 2007, the private developer for the project submitted a new master plan (“Superseding Master Plan”) and also Phase I Buildings Basic/Schematic Drawings [of Blocks 2 and 3] for the Navy Broadway Complex (Phase I Buildings). The Superseding Master Plan and Phase I Buildings replace and supersede the First Master Plan, which had been approved by CCDC, and previous building schematics, which had been submitted to CCDC, but not approved. On July 25, 2007, the CCDC Board of Directors adopted findings, based on all the information in the record, including the DSD CEQA Consistency Analysis and information provided by CCDC staff, including an “Initial Study” that the DSD CEQA Consistency Analysis continues to be adequate with respect to the Superseding Master Plan and that, pursuant to Public Resources Code section 21166, no further subsequent or supplemental EIR is required for the project. (CCDC Resolutions 2007-1 through 2007-5 (executed July 25, 2007).)

The only issue before the City Council is the appeal of the environmental findings (collectively the “environmental determination”) made by CCDC on July 25, 2007 that:

1. Based on all the information in the record DSD’s October 19, 2006 CEQA Consistency Analysis for the Master Plan for the NBC project (Attachment A) continues to be adequate with respect to the most recent Superseding Master Plan for that project;
2. No Subsequent or Supplemental EIR is required for the NBC project because no substantial changes have been proposed to the project that will require major revision to previous EIRs, no substantial changes have occurred with respect to the circumstances under which the NBC project is not being undertaken, and no information, which was not known and could not have been known at the time the 1992 Final EIR/EIS, the 1992 Final Master EIR for the Centre City Redevelopment Project, the 1999 Final Subsequent EIR for the Ballpark and Ancillary Development Projects, the 2000 North Embarcadero Visionary Plan EIR, and the 2006 Downtown Community Plan Final EIR were certified as complete, has become available.

FISCAL CONSIDERATIONS: None.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:

On July 25, 2007, the CCDC Board adopted findings that the Superseding Master Plan and Phase I Buildings Basic Concept/Schematic Drawings are consistent with the Design Guidelines, subject to recommended conditions. (Resolutions 2007-1 through 2007-5 (executed July 25, 2007).) At that same time the Board readopted the DSD CEQA Consistency Analysis prepared for the First Master Plan, finding that the DSD's analysis continues to be adequate with respect to the Superseding Master Plan and Phase I Buildings. Based on the DSD CEQA Consistency Analysis and the supplemental material provided by CCDC Staff, including the Initial Study, the Board adopted findings that under CEQA Section 21166, a Subsequent or Supplemental EIR need not be prepared for the NBC project.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On October 20, 1992, the City Council certified the EIR/EIS for the Navy Broadway Complex project. On October 25, 2006, CCDC adopted a resolution accepting the DSD CEQA Analysis prepared for the Navy Broadway Complex project, dated October 19, 2006.

On January 9, 2007, the City Council upheld the DSD CEQA Analysis adopted by CCDC on October 25, 2006, that the Navy Broadway Complex project is adequately addressed by prior environmental documents and no new environmental review is required. On July 25, 2007, CCDC adopted findings that the DSD CEQA Analysis continues to be adequate with respect to the Superseding Master Plan and Phase I Buildings for the Navy Broadway Complex project and that no further environmental review is required pursuant to Public Resources Code Section 21166.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Community participation occurred with the processing of the 1990 EIR/EIS, which was certified in 1992 at a public hearing. CEQA does not require public review with an evaluation conducted pursuant to Public Resources Code Section 21166. The October 25, 2006, CCDC meeting in which CCDC adopted the DSD CEQA Consistency Analysis was a public meeting and testimony was taken on the topic. The January 9, 2007, City Council Meeting in which the City Council denied the appeals as to the DSD CEQA Consistency Analysis and the action taken by CCDC in adopting that analysis was a public meeting and testimony was taken on the topic.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Appellants: 1) The San Diego Navy Broadway Complex Coalition and 2) Katheryn Rhodes and Conrad Hartsell, M.D.

Owner: United States Navy

Applicant: Manchester Financial Group

Sanchez/Graham

Staff: Eli Sanchez – (619) 533-7121

Huston Carlyle – Chief Deputy City Attorney

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

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 2:10 p.m. - 4:18 p.m.)

Testimony in favor by Katheryn Rhodes, Ian Trowbridge, Don Wood, Joanne Pearson, Scott Andrews, Corinne Wilson, Lorena Gonzalez, Marilyn Field, Brigitte Browning, Diane Coombs, Bruce Coons, and Walter Munk.

Testimony in Opposition by Steven Strauss, Tim Cowden, Peter Hekman, Larry Blumberg, Scott Alvey, Jim Schmidt, and John Hawkins.

MOTION BY FAULCONER TO ADOPT STAFF'S RECOMMENDATION, OPTION A, TO DENY THE APPEALS. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-nay, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



ITEM-337: COMM 22, Project No. 122002. Application for approval of a 252 unit mixed use, transit oriented development combining affordable family and senior housing with a day care facility, community serving commercial and retail space, office space, market rate live-work lofts and for sale townhomes on 4.58 acre site south of Commercial Street, between 21<sup>st</sup> Street and Harrison Avenue. (Southeastern San Diego Community Plan Area. District 8.)

Matter of approving, conditionally approving, modifying or denying the COMM 22 project. The project proposes a Rezone from SESDPD I-1 & MF-3000 to CC-3-5, Community Plan Amendment, Vesting Tentative Map, Public Right-of-Way Vacation to vacate a portion of Irving Ave & 22nd Street, Easement Vacation, Planned Development Permit, Site Development Permit and Conditional Use Permit to construct 252 residential units with commercial-retail on a 4.58 acre site at 2101, 2107, 2145 Commercial Street and 1826 Irving Avenue within the Southeastern San Diego Community Plan Area.

**STAFF'S RECOMMENDATION:**

Adopt the resolutions in Subitems A, C, D and E and introduce the ordinance in Subitem B:

Subitem-A: (R-2008-336) ADOPTED AS RESOLUTION R-303268

Adoption of a Resolution certifying that the information contained in Mitigated Negative Declaration No. 122002, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process,

has been reviewed and considered by this City Council in connection with the approval of a rezone, Progress Guide and General Plan and Southeastern San Diego Community Plan Amendment, a Vesting Tentative Map/Public Right-of-Way Vacation/Easement Vacation, and Site Development Permit/Planned Development Permit/Conditional Use Permit for the COMM 22 project;

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

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

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

Subitem-B: (O-2008-54)      INTRODUCED; TO BE ADOPTED ON  
TUESDAY, JANUARY 8, 2008

Introduction of an Ordinance changing 4.58 acres, located between Commercial Street, Beardsely Street and Irving Avenue, and between 21<sup>st</sup> Street and Harrison Avenue, within the Southeastern San Diego Community Plan Area, in the City of San Diego, California, from the Southeast San Diego Planned District MF-3000 and I-1 Zones into the Commercial CC-3-5 Zone, as defined by San Diego Municipal Code Section 131.0507, and repealing Ordinance Nos. O-17410 (New Series), adopted January 8, 1990 and O-18478 (New Series), adopted April 7, 1998, of the Ordinances of the City of San Diego insofar as the same conflict herewith.

Subitem-C: (R-2008-337) ADOPTED AS RESOLUTION R-303269

Adoption of a Resolution amending the Southeastern San Diego Community Plan;

Amending the Progress Guide and General Plan for the City of San Diego solely to incorporate the above amended plan.

Subitem-D: (R-2008-338 Cor. Copy) ADOPTED AS RESOLUTION R-303270

Adoption of a Resolution adopting the findings with respect to Vesting Tentative Map No. 415852, Public Right-of-Way Vacation No. 415855, and Easement Vacation No. 454297; all of which are herein incorporated by reference and supported by the minutes, maps and exhibits;

Declaring that the City Council has considered the General Plan, the applicable Community Plan and all other applicable land use plans prior to granting these drainage and sewer easement vacations;

Declaring that as a condition of this approval, the Applicant/Subdivider shall ensure that any and all deeds or conveyances of title to or an interest in the property are subject to, and governed by, the reservations and exceptions recited in this resolution and the deed or conveyance shall contain a recital to that effect;

Declaring that Vesting Tentative Map No. 415852 is granted to the Applicant/Subdivider subject to all attached conditions which are made a part of this resolution by this reference;

Declaring that the Public Rights-of-Way, as described and referenced herein, are ordered vacated, contingent upon the recordation of the approved final map for the project;

Declaring that pursuant to the California Government Code, the following public service easements, located within the project boundaries as shown in Vesting Tentative Map No. 415852, collectively referred to herein as Easement Vacation No. 454297 are ordered vacated, contingent upon the recordation of the approved final map for the project;

Declaring that the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by her under seal, to be recorded in the Office of the County Recorder consistent with the conditions and findings applicable herein.

Subitem-E: (R-2008-339) ADOPTED AS RESOLUTION R-303271

Adoption of a Resolution adopting the findings with respect to Site Development Permit No. 415853, Planned Development Permit No. 454025, and Conditional Use Permit No. 431367; all of which are herein incorporated by reference and supported by the minutes, maps and exhibits;

Declaring that Site Development Permit No. 415853/Planned Development Permit No. 454025/Conditional Use Permit No. 431367 is granted to San Diego Unified School District, Owner/COMM 22, LLC, Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

**OTHER RECOMMENDATIONS:**

Planning Commission on October 11, 2007, voted 4-0-3 to recommend approval of this project.

Ayes: Garcia, Smiley, Griswold, Ontai

Recusing: Naslund

Not present: Schultz, Otsuji

The Southeast San Diego Community Planning Committee has recommended approval of this project, with concerns.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Approval of a 252 unit mixed use, transit oriented development combining affordable family and senior housing with a day care facility, community serving commercial and retail space, office space, market rate live-work lofts and for sale townhomes on 4.58 acre site south of Commercial Street, between 21<sup>st</sup> Street and Harrison Avenue in the Southeastern San Diego community.

STAFF RECOMMENDATION:

1. **Certify** Mitigated Negative Declaration No. 122002, and **Adopt** the Mitigation Monitoring and Reporting Program; and
2. **Approve** Rezone No. 415850, Progress Guide and General Plan and Southeastern San Diego Community Plan Amendment No. 415854, Public Right-of-way Vacation No. 415855, Easement Vacation No. 454297, Vesting Tentative Map No. 415852, Planned Development Permit No. 454025, Site Development Permit No. 415853 and Conditional Use Permit No. 431367.

EXECUTIVE SUMMARY:

The project site is currently identified in the Southeastern San Diego Community Plan for Industrial and Residential uses. The proposed project is located within the Logan Heights neighborhood of the Southeastern San Diego community, more specifically located on the southern side of Commercial Street, between 21<sup>st</sup> Street and Harrison Avenue. The site is currently owned by the San Diego Unified School District (District) and was used as the District's Maintenance and Operations Center until 1988. The project site is comprised of three separate sites, referred to as Site A, Site B and Site C. Site A currently contains six structures, Site B is currently vacant, and Site C currently contains concrete building foundations remaining from former uses.

The project requires a Progress Guide and General Plan and Southeastern San Diego Community Plan Amendment to change the land use designation as identified in the community plan from Industrial and Residential to Community Commercial; a Rezone from SESDPD I-1 and SESDPD-MF-3000 Zones to CC-3-5 Zone; a Public Right-of-Way Vacation to vacate a portion of Irving Avenue and 22<sup>nd</sup> Street; an Easement Vacation to vacate drainage, sewer, and utility easements; Vesting Tentative Map, Planned Development Permit, Site Development Permit and Conditional Use Permit. The project proposes nine deviations from adopted regulations and one deviation each from the street, wastewater and water design manuals.

The project proposes to redevelop the site into a mixed-use, transit-oriented development combining work-force family and senior housing with day care facilities, community serving commercial and retail space, office space, market rate live-work lofts, and for sale town homes. An important part of the proposal is the reuse of the existing four-story warehouse building on the southeastern corner of Commercial Street and 21<sup>st</sup> Street. The existing warehouse would be rehabilitated to provide office and live-work loft uses. The other seven buildings proposed by the project would be new construction. The project would create 252 dwelling units, 27,835 square feet of commercial retail and office space, and a 5,447 square foot child day care facility for a maximum of 74 children and 13 staff. Of the 252 dwelling units, the project would provide 27 market rate live/work lofts, 11 studio apartments, 127 affordable family and 70 senior housing



apartments, and 17 for-sale market rate condominiums. In addition, the proposed project would include enhanced plaza areas for public gathering, pedestrian connectivity throughout the site, and convenient access to public transportation. The proposed project would upgrade the infrastructure, including streetscape improvements, re-alignment and construction of storm drains, water and sewer lines, and under-grounding of power lines.

All issues identified through the review process have been resolved in conformance with adopted City Council policies and regulations of the Land Development Code. Staff has provided draft findings to support approval of the vacations, subdivision map and development permits and draft conditions of approval. Staff is recommending the City Council approve the project as proposed.

FISCAL CONSIDERATIONS:

No fiscal impact. All costs associated with the processing of the application are recovered through a deposit account funded by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On October 11, 2007 the Planning Commission voted 4:0:0 to recommend approval of the proposed project. On September 18, 2007 the Southeastern San Diego Community Planning Committee voted 7:0:0 to recommend approval of the proposed actions, with concerns. For a full discussion addressing the planning group's concerns, see the Planning Commission report, Attachment 1.

KEY STAKEHOLDERS:

San Diego City School District, California Department of Education, Owner and COMM 22, LLC, Applicant.

Anderson/BoekampJF

**LEGAL DESCRIPTION:**

The project is located on three sites along Commercial Street, between 21<sup>st</sup> Street and Harrison Avenue, within the Southeastern San Diego Community Plan and Transit Area.

Staff: John Fisher - (619) 446-5231  
Shirley Edwards– Deputy City Attorney

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

**FILE LOCATION:** SUBITEMS A, C, D, & E: MEET  
SUBITEM B: NONE

**COUNCIL ACTION:** (Time duration: 5:10 p.m. - 5:16 p.m.)

MOTION BY HUESO TO ADOPT THE RESOLUTIONS IN SUBITEMS A, C, D, AND E AND TO INTRODUCE THE ORDINANCE IN SUBITEM B. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.



**ITEM-338:** 15640 Bernardo Tentative Map, application for a Tentative Map to convert 316 existing apartment units into condominiums, including a request for a Right-of-Way Vacation and an Easement Abandonment within the Rancho Bernardo Community Plan. (Rancho Bernardo Community Plan Area. District 5.)

Matter of approving, conditionally approving, modifying or denying an application for a Tentative Map to convert 316 residential units to condominiums including a request for a Right-of-Way Vacation and an Easement Abandonment on a 27.05 acre site at 15640 Bernardo Center Drive in the RM-1-1 Zone within the Rancho Bernardo Community Plan. The proposed right-of-way vacation is for an unused and unimproved triangular sliver of a future street reservation adjacent to Camino del Norte. The easement abandonment is for a portion of a general utility easement within the residential complex.

Should the condominium conversion project should be approved, tenants may be required to vacate the premises. No units may be sold in this building unless the conversion is approved by the City and until a public report is issued by the Department of Real Estate. Each tenant has the exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

(Tentative Map No. 352695/Easement Abandonment No. 366059/Public Right-of-Way Vacation No. 366060/Project No. 106141.)

(Continued from the meeting of October 30, 2007, Item S331, at the request of Councilmember Hueso, for further review.)

**NOTE:** Hearing open. No testimony taken.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-263)                      CONTINUED TO TUESDAY, JANUARY 15, 2008

Adoption of a Resolution approving the findings with respect to Tentative Map No. 352695, Public Right-of-Way Vacation No. 366060, and Easement Vacation No. 366059;

That pursuant to SDMC section 125.0941, the Council approves the findings for the Public-Right-of-Way Vacation;

That pursuant to SDMC section 125.1040, the Council approves the findings for the Easement Abandonment;

That Tentative Map No. 352695, Easement Abandonment No. 366059 and the Public Right-of-Way Vacation No. 366060 is granted to EQR Deerwood Vista, Inc., Applicant/Subdivider and Project Design Consultants, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

**OTHER RECOMMENDATIONS:**

Planning Commission on July 19, 2007, voted 6-0-1 to approve; no opposition.

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

Not present: Griswold

The Rancho Bernardo Planning Group has recommended approval of this project.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

This action is requesting approval of a Tentative Map to convert 316 existing apartment units into condominiums. The map includes a request to vacate a remnant portion of Camino Del Norte shown as a future street reservation, and a request to abandon portions of an unused general utility easement on a 27.05 acre site located at 15640 Bernardo Center.

**STAFF RECOMMENDATION:**

1. APPROVE Tentative Map No. 352695; and
2. APPROVE Easement Abandonment No. 366059; and
3. APPROVE Public Right-of-Way Vacation No. 366060.

**EXECUTIVE SUMMARY:**

The existing apartment complex consists of 37 separate structures containing 315 rental units, a manager's apartment and a recreation facility. The project was constructed in 1988 pursuant to Planned Residential Development Permit (PRD) No. 87-0943 and the R-3000 Zone multi-family development regulations in effect at that time. Surrounding land uses include a light industrial park to the north, open space to the east, a small commercial node to the south and single-family development to the south and west.

The proposed project is requesting a Tentative Map to convert the existing rental units into condominiums. The 27.05 acre site is located at 15640 Bernardo Center Drive at the intersection of Bernardo Center Drive and Camino Del Norte in the Rancho Bernardo Community Plan area. The existing buildings consist of two floors of habitable space over grade-level semi-enclosed parking structure. The unit mix ranges from 900 square feet to 1,995 square feet and includes a variety of two and three bedroom floor plans. The project requires a minimum of 427 off-street parking spaces to comply with current condominium parking standards, however, the proposed project provides 674 existing off-street spaces which would remain as currently configured on the site. The proposed Tentative Map also includes a request to vacate an unused portion of Camino Del Norte shown as a "future street easement" that is no longer required by the City;

and an easement abandonment for portions of an unused general utility easements on the property. The Camino Del Norte vacation involves a remnant triangular sliver of public right-of-way. The right-of-way was dedicated as part of the original subdivision as a “future street reservation” however the reservation was not used when the street was improved and has been determined to no longer be necessary, therefore staff has required the developer to vacate the dedication as a part of the tentative map. Likewise, the proposed easement abandonment would remove dedicated portions of general utility easements on the site that were never utilized for their intended purpose. Instead, alternative utility easements were dedicated within the project’s access roads and along the exterior of the property where the utilities were installed and will remain. The original unused easements have several structures built over them. These physical encroachments have no effect on the property when the units are apartments but would encumber the title for sale of individual units if the proposed tentative map to convert the units to condominiums is approved.

Staff has no objection to the abandonment of the unused easements. This condominium conversion project was deemed complete on July 12, 2006, and is therefore subject to the new regulations regarding Inclusionary housing and tenant relocation assistance. Condominium conversion projects of twenty or more units are required to satisfy the inclusionary housing requirements on-site in accordance with Section 142.1306 of the San Diego Municipal Code. Therefore, prior to the recordation of the final map, the Subdivider must enter into an agreement with the San Diego Housing Commission to assure that the 32 (10%) of the affordable units are sold at restricted prices to eligible households. Additionally, the proposed conversion shall provide a relocation assistance payment to all tenants of the project.

Staff has reviewed the application and determined the project complies with the Subdivision Map Act and the applicable sections of the Land Development Code including the Inclusionary Housing regulations and the new Condominium Conversion regulations.

Staff determined that the proposed conversion is consistent with the recommended land use and density of the Rancho Bernardo Community Plan. Staff concluded that the proposed vacation of existing right-of-way and utility easements are appropriate actions for the tentative map in that the easements are no longer required and there is no public benefit to maintaining the unused easements. The project was determined to be exempt from environmental review pursuant to CEQA Guidelines.

FISCAL CONSIDERATIONS:

None with this action. The applicant is paying the cost of processing this application.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The Planning Commission placed the item on the July 19, 2007, Consent Agenda and recommended approval of the project 6-0-1 with Commissioner Griswold absent. On February 15, 2007, the Rancho Bernardo Community Planning Board voted 20-1-0 to recommend approval of the project.

**KEY STAKEHOLDERS:**

EQR Deerwood Vista, Inc. (owner)  
Project Design Consultants (applicant)

Boekamp/Anderson/PH

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

Staff: Patrick Hooper – (619) 557-7992  
Andrea Dixon – Deputy City Attorney

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

**FILE LOCATION:** NONE

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

MOTION BY MADAFFER TO CONTINUE TO TUESDAY, JANUARY 15, 2008, FOR FURTHER REVIEW. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-339: Pacific Coast Office Building, PTS Project No. 54384. Appeal of the Environmental Document, Mitigated Negative Declaration No. 54384. (Mission Valley Community Plan Area. District 6.)

As a property owner, tenant, or person who has requested notice, or interested citizen, you should know that a public hearing will be held by the City Council to consider an environmental determination appeal on an application for a Site Development Permit to construct an approximate 10,000 square foot office building on an approximate five-acre site containing environmentally sensitive lands, located east of the southerly terminus of Scheidler Way, south of the 3300 block of Camino Del Rio South in the MV-CO Zone of the Mission Valley Planned District. Matter of the appeal filed by Randy Berkman, Lynn Mulholland, James A. Peugh, and Ellen Shively and others applies only to the environmental determination.

(See Report to the City Council No. 07-122.)

(Continued from the meetings of July 31, 2007, Item 330; September 25, 2007, Item 334; and October 30, 2007, Item S333; at the request of Councilmember Hueso, for full City Council. Testimony taken.)

**NOTE:** Hearing closed.

According to the San Diego Municipal Code (SDMC), Land Development Code, Section 112.0520(d)(1)-(3), the City Council shall consider the appeal and shall, by a majority vote:

- (1) Deny the appeal, uphold the environmental determination and adopt the CEQA findings of the previous decision-maker, where appropriate;
- (2) Grant the appeal and make a superseding environmental determination or CEQA findings; or
- (3) Grant the appeal, set aside the environmental determination, and remand the matter to the previous decision-maker, in accordance with SDMC Section 112.0520(f), to reconsider the environmental determination that incorporates any direction or instruction the City Council deems appropriate.

If the City Council denies the appeal or grants the appeal under Section 112.0520(d)(2), the lower decision-maker's decision to grant the entitlements, approval or City authorization, shall become effective immediately.

If the City Council grants the appeal under Section 112.0520(d)(3), the lower decision-maker's decision to grant the entitlements, approval or City authorization shall be deemed vacated and the lower decision maker shall reconsider its environmental determination and its decision to grant the entitlements, approval or City authorization, in view of the action and, where appropriate, any direction or instruction from the City Council.

**STAFF'S RECOMMENDATION:**

Take the following actions:

Subitem-A: (R-2008- ) GRANTED APPEAL; ADOPTED AS  
RESOLUTION R-303272

Adoption of a Resolution granting or denying the appeal and upholding or overturning the Planning Commission's decision certifying the Mitigated Negative Declaration, Project No. 54384; and certifying the associated Mitigation, Monitoring and Reporting Program;

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

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter;



Subitem-B: (R-2008- ) GRANTED APPEAL; ADOPTED AS  
RESOLUTION R-302373

Adoption of a Resolution granting or denying the appeal and granting or denying  
Site Development Permit (Mission Valley Planned District) Permit No. 158004.

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

**OTHER RECOMMENDATIONS:**

Planning Commission on June 15, 2006, voted 4-2 to deny the appeal and approve staff's  
recommendation; was opposition.

Ayes: Schultz, Ontai, Otsuji, and Steele

Nays: Chase, Garcia

Not present: Griswold

The Mission Valley Community Planning Organization on September 7, 2005 voted to  
recommend approval of this project.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

This action is the appeal of the environmental document, Mitigated Negative Declaration No.  
54384, prepared for a 10,000 square-foot office building located at 3517 Camino del Rio South  
in the Mission Valley Community Plan area.

**STAFF RECOMMENDATION:**

**DENY** the appeal and **UPHOLD** the Environmental Determination (Mitigated Negative  
Declaration No. 54384).

**EXECUTIVE SUMMARY:**

On September 26, 2006, the City Council voted 7-0-0 with Councilmember Maienschein absent) to approve a prior appeal of Mitigated Negative Declaration No. 54384 and remanded the issue back to the Planning Commission to reconsider the project.

As a part of the motion to approve the appeal, the City Council directed staff to “review alternatives that would reduce impacts” associated with the development. This direction was a result of public testimony wherein, it was discussed that previous project design alternatives had been submitted, reviewed and subsequently rejected by Development Services during the project review phase of the entitlement process. The Council felt that the public should be made aware of those project alternatives and have had the opportunity to comment on them. The Council therefore instructed staff to include an alternatives analysis and mandated that the revised document be re-circulated for public review.

The MND was revised and re-circulated pursuant to the Council direction. Various project designs were summarized along with the staff determinations that precluded these designs from further consideration. Some of the designs lessen certain impacts such as visual affect, building scale, brush management and grading. However, these resulted in increased impacts on the hillside including a higher degree of non-compliance with the Mission Valley Planned District Ordinance and the Mission Valley Community Plan. On May 17, 2007, the project, and the revised Mitigated Negative Declaration were reconsidered by the Planning Commission. The Commission unanimously voted to certify the environmental document and approve the project. On May 27, 2007, the environmental document was again appealed to the City Council.

The appeal asserts that the alternative designs the Council requested should not have included previous project designs already reviewed by the staff but rather, new design alternatives that further reduce the project’s environmental impacts. This was not the staff interpretation of the motion. The environmental document that is the subject of this appeal is a Mitigated Negative Declaration. This type of environmental document does not typically include an analysis of project alternatives however; the staff revised the document to include an array of project designs that covered the basic design and siting options available for the property. Each of the previous designs offered potential reductions in certain impacts while at the same time created additional impacts that were considered to be of greater significance. Staff was able to conclude that the proposed design was preferable to the alternatives in that the overall project provided the least potential impacts to the site and all of the impacts identified could be mitigated to a level below significant. Additional appeal issues contend factual error, new information and that the findings cannot be supported. These issues are discussed in the Report to City Council.

**FISCAL CONSIDERATIONS:**

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

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On June 15, 2006, the Planning Commission denied an appeal of a Hearing Officer decision, certified Mitigated Negative Declaration (MND) No. 54384 and approved the Pacific Coast Office Building project. On June 29, 2006, the environmental document was appealed to the City Council. On September 26, 2006, the City Council upheld the environmental appeal and remanded the issue back to the Planning Commission for reconsideration. On May 17, 2007, the Planning Commission reheard the item, certified the Mitigated Negative Declaration and approved the project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On May 17, 2007, the Planning Commission voted 5-0-0, with Commissioner Garcia absent to approve the project. On September 7, 2005, the Mission Valley Community Planning Organization voted 15-0-0 to recommend approval of the project. On January 3, 2006, the Normal Heights Planning Group voted 10-0-0 to recommend denial of the project. This appeal was filed by individuals representing: Friends of San Diego, the River Valley Preservation Project, University Heights Planning Committee and the San Diego Chapter of the Sierra Club.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Dr. Robert Pollack, Pacific Coast Office Building LLC, Applicant

Escobar-Eck/Waring/PH

LEGAL DESCRIPTION:

The project is located just east of the terminus of Scheidler Way, in the Mission Valley Planned District within the Mission Valley Community Planning area (Lot 1 of Nagel Tract Unit No. 2 Subdivision, Map 4737).

Staff: Patrick Hooper – (619) 557-7992

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:18 p.m. - 4:32 p.m.  
4:35 p.m. - 4:39 p.m.)

Testimony in favor by Randy Berkman.

Testimony in opposition by Michael McDade.

Motion by Frye that City Council has reviewed and considered the Initial Study, the Mitigated Negative Declaration, and the Mitigation Monitoring and Reporting Program [collectively, the MND] for this project and has fully considered all information and evidence as found in the record.

The City Council further finds that the Mitigated Negative Declaration has not been prepared in compliance with the California Environmental Quality Act [CEQA] nor in compliance with the State CEQA Guidelines.

The City Council finds that the Mitigated Negative Declaration fails to adequately identify, consider, and analyze the potential significant adverse environmental impacts, fails to adequately mitigate potential significant adverse impacts, fails to analyze and provide all feasible mitigation measures and fails to adequately analyze and address feasible alternatives.

The City Council further finds that a fair argument, based upon substantial evidence in the record, has been made that the project may cause significant adverse environmental impacts that have not been fully mitigated and thus an Environmental Impact Report is warranted.

The City Council further finds, for the reasons explained below, that substantial evidence in the record establishes the following potential significant adverse environmental impacts that have not been fully mitigated:

1. Impacts to Aesthetics, Loss of Steep Slopes and Building Incompatibility:

(a) The project exceeds the City's allowable height and bulk regulations and bulk of the existing patterns of development in the vicinity of the project by a substantial margin. The project is located in a highly visible area, on the steep slopes of Mission Valley, and would strongly contrast with surrounding development and/or natural topography through excessive height and bulk.

(b) The project would result in the physical loss, isolation or degradation of a community identification symbol or landmark, which is identified in the General Plan, applicable Community Plan, or local coastal program. Specifically, the Mission

Valley Community Plan identifies the “linear greenbelt and natural form of the southern hillsides” as a community landmark and calls it out for preservation. This greenbelt is located above the 150-foot contour line and is located within the steep slopes of the southern hillside where this project will encroach. The Mission Valley Planned District Ordinance also prohibits development over the 150-foot contour line to protect steep slopes. By allowing development above the 150-foot contour line, the project results in the physical loss of steep slopes in the linear greenbelt, which are identified in the Mission Valley Community Plan.

(c) The project significantly conflicts with height, bulk and/or coverage regulations of the zone, particularly in that it encroaches into designated open space and the open space easement, and it would be developed over the 150-foot contour line.

2. Inconsistency with Mission Valley Community Plan

(a) According to the Mission Valley Community Plan, “[d]evelopment oriented toward the valley and accessed by roads from the Valley floor should not extend above the 150-foot elevation contour.” The Mission Valley Community Plan states that one of its objectives is to “[p]reserve as open space those hillsides characterized by steep slopes or geological instability in order to control urban form, insure public safety, provide aesthetic enjoyment, and protect biological resources.” The inconsistency with the goals, objectives, and guidelines of the Mission Valley Community Plan should be addressed in the CEQA document for this project and fully mitigated. It was not. Under CEQA, the following are significant land use impacts:

- (1) Inconsistency/conflict with the environmental goals, objectives, or guidelines of the community or general plan is a significant environmental impact. The project is inconsistent with the Mission Valley Planned District Ordinance in that the Ordinance prohibits development above the 150-foot contour line. Furthermore, the project conflicts with the environmental goals of both the community and the general plan because it encroaches on designated open space.
- (2) Development or conversion of a general plan or community plan designated open space to a more intensive land use is a significant environmental impact. The project provides for development in designated open space to a more intensive land use; a large percentage of the building footprint encroaches into the open space.

3. Impacts to Traffic and Average Daily Trips

In determining the Average Daily Trips [ADTs] for this project, steep hillsides were improperly included in the calculation of the allowable ADTs. The San Diego Municipal Code expressly prohibits the inclusion of steep hillsides in the calculation of ADTs. Section 1514.0301(d)(1)(A) and (C) states, "Land acreage within a steep hillside shall not be used to calculate the ADT allocation." Furthermore, Table 1514-03A of the Municipal Code emphasizes, "Excluding acreage within steep hillsides." This is significant because, per the City's Significance Determination Thresholds, traffic impacts are evaluated by the number of average daily trips [ADTs] created by a project. If the steep hillsides are excluded from the ADT calculation for this project, the ADT allowance is exceeded and reveals significant traffic impacts. The majority of this project is located in steep hillsides. Exceeding the ADT allowance would also require an exception to the Planned District Ordinance [PDO] regulations or an amendment to the Mission Valley Community Plan as per San Diego Municipal Code Section 1514.0303.

4. Brush Management Impacts

As the steep slopes where this project will be located contain sensitive biological resources including rare, threatened, and/or endangered plant and/or animal species and their habitat and because fire may have a substantial adverse affect on human beings, the lack of brush management is by definition a significant environmental impact under CEQA Guidelines Section 15065 subsections (a) and (d). This project has no brush management requirement and instead relies solely on fireproof building materials and a sprinkler system in order to address fire safety. No report was conducted by a fire behavior analyst and no written opinion was obtained from the Fire Chief as to the Adequacy of the A lternative measures as required by the San Diego Municipal Code. Under the San Diego Municipal code Section 142.0142, brush management is required for all development adjacent to open space. This Municipal Code provision applies to this project. The Municipal Code also mandated two zones around this project's structures. Zone One extends 35 feet beyond the structure and must be free of habitable structures and must be irrigated, among other requirements. Zone Two extends 65 feet beyond Zone One and provides for thinning of natural habitat. These requirements may be modified upon written opinion of the Fire Chief, based upon a fuel-load model report conducted by a certified fire behavior analyst, among other requirements. This project fails to meet these Municipal Code requirements.

The City Council has considered the appeal and grants the appeal, sets aside the Mitigated Negative Declaration, and retains jurisdiction remanding the project back to staff with the following instruction: (1) prepare an Environmental Impact Report that fully addresses the potential adverse environmental impacts identified in this determination, (2) where necessary, prepare a Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations, and (3) upon completion of the Environmental Impact Report return to City Council so that City Council may determine whether to certify the Environmental Impact Report, adopt a Mitigation Monitoring and Reporting Program, and adopt a Statement of Overriding Considerations. Second by Falconer. Failed\*. Yeas-2346; Nays-1578.

\*Per City Attorney the environmental document was not affirmatively certified; therefore, the appeal is effectively granted.



[ITEM-340](#): Revisions to Brush Management Regulations to Finalize LCPA Certification Process to amend the municipal code to clarify the brush management regulations and clarify the approval process for the use of goats for brush management.

The City Council will adopt, modify, or not adopt amendments to Municipal Code Chapter 4, Article 4 and Chapter 14, Article 2 of the Land Development Code and Local Coastal Program that resulted from the Coastal Commission's conditional certification order on the City's Brush Management Local Coastal Program Amendment (LCPA) application. The proposed ordinance includes a citywide, 100-foot width brush management standard and other clarifications related to applicability and process, alternative compliance, and remedies in case of brush management violations. The Coastal Commission conditionally certified the City's LCPA application with modifications including a new policy for environmentally sensitive lands in the coastal zone, which would require that new subdivision developments locate the entire 100 feet of brush management within the 25 percent development area of premises. As proposed, the City would also commit to a 5-year trial program and annual monitoring reports for the use of goats for brush management in the coastal zone.

(See Report to the City Council No. 07-193 [not available at Committee]; Report to City Council No. 04-181; Ann Hix's September 20, 2004, memorandum; Robert C. Leif, Ph.D.'s September 21, 2004, letter.)

**TODAY'S ACTIONS ARE:**

Introduce the ordinance in Subitem A and adopt the resolution in Subitem B:

Subitem-A: (O-2008-60 Rev. Copy) INTRODUCED AS AMENDED; TO BE  
ADOPTED TUESDAY, JANUARY 8, 2008

Introduction of an Ordinance amending the San Diego Municipal Code relating to brush management.

Subitem-B: (R-2008-366) ADOPTED AS RESOLUTION R-303274

1. That the Mayor is directed to submit the final ordinance and resolution to the Coastal Commission for final certification of LCPA No. 1-07;
2. That the City staff are directed to submit an annual monitoring report to the Coastal Commission documenting the dates and locations of each instance of goat use, the number of acres managed, number of goats per acre, and analysis of success in reducing height and volume of vegetation for five years following the first use of goats for brush management in the coastal zone. The monitoring report shall be accompanied by photographs documenting the before and after condition of the areas managed by goats. The report shall document any instance of violation and/or required mediation during the previous year. If at the end of five years, the monitoring reports indicate that the use of goats has adversely impacted ESHA, the use of goats in the coastal overlay zone shall be discontinued.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

Reviewed by NR&C Committee on 9/22/04. Recommendation to direct the City Manager to change the term "Competent Goat Contractor" to "Qualified Goat Contractor". Districts 7, 2, and 6 voted yea. Districts 8 abstained.



**SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Amend the municipal code to clarify the brush management regulations and clarify the approval process for the use of goats for brush management. Adopt resolution to provide annual monitoring reports to the Coastal Commission for a 5-year trial program to use goats for brush management in the coastal zone. Consider whether to adopt the new policy related to calculation of development area for new coastal subdivisions with environmentally sensitive lands.

**STAFF RECOMMENDATION:**

Introduce and adopt the ordinance amending Municipal Code Chapter 4, Article 4 and Chapter 14, Article 2 of the Land Development Code and Local Coastal Program. Adopt the resolution to provide annual monitoring reports to the Coastal Commission for a 5-year trial program to use goats for brush management in the coastal zone. Direct staff to submit for a determination of consistency with the certification order.

**EXECUTIVE SUMMARY:**

In September 2005, the City Council unanimously approved amendments to the brush management regulations to improve fire safety including: a standardized 100 feet of defensible space from structures, requirements for new development adjacent to hazardous vegetation areas to incorporate fire resistive building features, and authorization for the use of goats for brush management. The City Council also adopted a Resolution (R-300799) to increase the amount of protected core habitat under the City's MSCP Subarea Plan by adding 715 acres (including 113.6 acres in the coastal zone) to the City's MHPA conservation lands, in accordance with resource agency recommendations. The revised brush management regulations became effective outside of the coastal zone in October 2005.

Since that time, City staff has been working to obtain certification from the Coastal Commission to apply the new regulations in the coastal zone for consistent application of brush management across the City. As re-emphasized following the devastating Cedar (2003) and Witch Creek (2007) fires, the San Diego region is susceptible to seasonal brush fires. It is imperative that the coastal zone be afforded an equivalent level of fire protection. Currently, in the coastal zone, the brush management zone width varies between 40 and 95 feet total (based on geographic location), which is less protective than the statewide recognized standard of a minimum 100 feet of defensible space. The amendment proposal also incorporates a more environmentally sensitive methodology that includes restrictions on timing of the brush management activity and requires selective thinning and pruning of vegetation.

On February 15, 2007, the Coastal Commission conditionally certified the City's LCPA application with suggested modifications, and granted the City a one-year extension (on August 9, 2007) to complete the certification process. The majority of the language added by the Coastal Commission clarifies and strengthens the City's existing code. However, some of the language drafted by Coastal Commission staff is inconsistent with the City's Land Development Code and Local Coastal Program, and was therefore modified without changing the Commission intent to protect environmentally sensitive habitat areas (ESHA). As proposed, the City would commit to a 5-year trial program and annual monitoring requirements for the use of goats for brush management in the coastal zone by Resolution (R-2008-366). The proposed ordinance also reflects a new land use policy that would prohibit brush management impacts by new coastal subdivision developments within Coastal Act protected ESHA, beyond a 25 percent development area, consistent with the Commission's certification order.

FISCAL CONSIDERATIONS:

Processing of the code amendments has been funded by a combination of the general fund and the Development Services enterprise fund. Private property owners are responsible for the costs of brush management on private property; while brush management activity on public land is paid for by the general fund and coordinated by the Park and Recreation and Fire-Rescue Departments. There are approximately 1,180 acres of public land subject to brush management that requires management and participation by both administrative and field staff. For the past decade, the City has budgeted resources to cover brush management for 70 acres per year. Additional funding to the City's Brush Management Program in FY08 has enabled staff to increase the number of acres thinned from 70 acres to a goal of 210 acres. The City is currently seeking additional funding sources to offset future general fund costs as part of a long term public brush management program. The goat monitoring program required by the Coastal Commission would be in addition to existing monitoring conducted by the Fire-Rescue Department. The monitoring program would require that annual reports be prepared and submitted, which would generate additional costs without any mechanism for cost recovery.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On January 27, 2004, the City Council adopted a resolution (R-298827) directing staff to amend the Municipal Code to require a standard 100 foot defensible space between structures and native wild lands, consider the fiscal cost of ongoing brush management on public lands, and develop a public outreach and training program. On August 11, 2004, NR&C reviewed information on the concept of goats for brush management and approved a pilot program for the use of goats. On September 22, 2004, NR&C received a status update on the use of goats and recommended a draft ordinance to authorize the use of goats for brush management citywide. On September 6, 2005, the City Council introduced the brush management ordinance (adopted September 19) and certified the associated brush management EIR.





ITEM-S500: Addition of Independent Budget Analyst Staff Member.

(See memorandums from Council President Peters and Independent Budget Analyst Tevlin dated 11/27/2007.)

**COUNCIL PRESIDENT PETERS' RECOMMENDATION:**

Hold the first public hearing of the ordinance:

(O-2008-77)                      INTRODUCED; TO BE ADOPTED  
TUESDAY, JANUARY 8, 2008

Authorizing the City Auditor and Comptroller to add 1.0 position to Office of the Independent Budget Analyst (Dept. 030) and to transfer, appropriate, and expend \$50,000 from the FY 2008 appropriated reserve to Office of the Independent Budget Analyst (Dept. 030) for an additional position;

Amending Ordinance No. O-19652 (New Series) entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 2008 and Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year" by increasing Office of the Independent Budget Analyst (Dept. 030) by 1.0 position and \$50,000 for salary and fringe for the balance of FY 2008, and non-personnel costs for office space and equipment.

Staff: Betsy Kinsley – (619) 236-6687  
Catherine M. Bradley – Chief Deputy City Attorney

**NOTE:** Today's action is the first public hearing. See the docket of Tuesday, January 8, 2008, for the second public hearing and the introduction and adoption of the Ordinance.

FILE LOCATION:                      NONE

COUNCIL ACTION:                      (Time duration: 6:05 p.m. - 6:05 p.m.)

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



ITEM-S501: Appropriating \$800,000 from the General Fund Appropriated Reserve.  
(Otay Mesa Community Area. District 8.)

(See the Independent Budget Analyst Report No. 07-116 and memorandum from William Anderson dated 11/27/2007.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-484)                      ADOPTED AS RESOLUTION R-303275

Authorizing the City Auditor and Comptroller to transfer \$800,000 of appropriations from the General Fund Appropriated Reserve (Dept. 602/Fund 100) to the City Planning and Community Investment Department (Dept. 065/Fund 100) for the completion of the Otay Mesa Community Plan Update;

Authorizing the Mayor, or his designee, to negotiate and execute, for and on behalf of the City, all documents, including contracts, subcontracts, agreements, extensions, and/or renewals necessary, so long as consistent and in compliance with all San Diego Administrative Regulations, City Council Policies, the San Diego Municipal Code, the City Charter (including City Attorney approval) and applicable law, for the completion of the Otay Mesa Community Plan Update, contingent upon the City Auditor and Comptroller first certifying that funds are available.

**STAFF SUPPORTING INFORMATION:**

The Otay Mesa Community Plan Update is a high priority for the Mayor and the City. The City embarked on the update in 2001, but due to resource and staff constraints, work did not progress in a timely manner. In the spring of 2004, a coalition of developers provided technical resources and consultants to the City Planning & Community Investment Department in order to accelerate work on the update. The coalition members included Pardee Homes, D.R. Horton Homes, Centex Homes, Integral Communities, Sunroad Enterprises, McMillin Land Development, and Brown Field Technology Park, LLC, who were interested in pursuing land use changes that involved plan amendments which would not otherwise be considered while an update was in process.

The City agreed to accept resources and accelerate the process, but did not commit to recommend favorably on coalition proposals. Without the funding commitment from the coalition, diminished City resources would not have advanced the update as far as its current status.

The Otay Mesa Community Plan Update has reached a critical junction in the public process, and the City is now in a position to fund the remaining work needed to complete the process. City Planning & Community Investment anticipates the continued use of consultants to complete the community plan update process, which includes continuing public outreach, completing the technical studies, drafting the policy document, completing the EIR, preparing a Public Facilities Financing Plan, and creating a zoning implementation program. The appropriation of the requested funding would allow staff to coordinate with the Purchasing Department on the process of hiring any consultants needed to complete the update process, and then continuing with the update process.

Without the funding commitment, the update process may not be completed in a timely fashion due to diminished City resources. The technical studies associated with the EIR and the update process may become dated without the timely completion of the update, thus requiring new or updated studies should staff resources and/or funding for the update be found at a later time.

FISCAL CONSIDERATIONS:

The \$800,000 allocation from the Appropriated Reserve is requested because the Otay Mesa Update has reached a critical junction in the public process, and because funding is needed to complete the process in a timely fashion. Based on the scopes of work submitted by the consultants previously under contract with the coalition, staff has determined that the \$800,000 appropriation will allow the update process to be completed. There may be an opportunity for some of the technical studies to be funded through the Public Facilities Financing Plan, but this decision will be coordinated with Facilities Financing staff upon completion of the studies, the final costs, and reimbursement determination.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS:

Public outreach and participation have been integral components throughout the update process, including more than 40 public workshops, planning group meetings, Planning Commission workshops, and Roundtables. Outreach will continue to interested property owners and stakeholders, and includes continued discussions on alternative land uses, workshops, the draft policy when released, and on issues related to the update at the monthly meetings of the Otay Mesa Community Planning Group.

KEY STAKEHOLDERS and PROJECTED IMPACTS:

The projected impact of the funding appropriation would be that the update process would continue and the momentum and work to date would not be lost. Key stakeholders in the update process include the Otay Mesa Community Planning Group, the Otay Mesa Chamber of Commerce, SANDAG, Caltrans, adjacent jurisdictions, and all other interested property owners in the Otay Mesa community planning area.

Wright/Anderson

Aud. Cert. 2800413.

Staff: Theresa Millette - (619) 235-5206  
Rachel Lipsky - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:17 p.m. - 5:33 p.m.)

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

ITEM-S502: Payment of Court Ordered Legal Fees for SDCERS v. Aguirre (No. GIC 841845), People v. Grissom (No. GIC 850246), and Torres v. City (No. GIC 852293).

(See memorandum from Council President Peters dated 11/29/2007.)

**COUNCIL PRESIDENT PETERS' RECOMMENDATION:**

Take the following actions:

(R-2008-27)                      ADOPTED AS RESOLUTION R-303276

Payment of court ordered legal fees for Plaintiff Ron L. Saathoff in the amount of \$287,947.65 to Coughlin, Semmer and Lipman for their work in SDCERS v. Aguirre (No. GIC 841845), People v. Grissom (No. GIC 850246), and Torres v. City (No. GIC 852293);

Payment of court ordered legal fees for Plaintiff Sharon K. Wilkinson in the amount of \$107,802.50 to Damiani Law Group for their work in SDCERS v. Aguirre (No. GIC 841845), People v. Grissom (No. GIC 850246), and Torres v. City (No. GIC 852293);

Payment of court ordered legal fees for Plaintiff Terri A. Webster in the amount of \$179,860.81 to Frank T. Vecchione for his work in SDCERS v. Aguirre (No. GIC 841845), People v. Grissom (No. GIC 850246), and Torres v. City (No. GIC 852293);

Payment of court ordered legal fees for Plaintiff Cathy Lexin in the amount of \$179,014.63 to Gibson, Dunn & Cruthcher for their work in SDCERS v. Aguirre (No. GIC 841845), People v. Grissom (No. GIC 850246), and Torres v. City (No. GIC 852293);

Payment of court ordered legal fees for Plaintiff Mary Vattimo in the amount of \$76,853.38 to Hahn and Adema for their work in SDCERS v. Aguirre (No. GIC 841845) and Torres v. City (No. GIC 852293);



Payment of court ordered legal fees for Plaintiff John A. Torres in the amount of \$780,647.35 to Sheppard, Mullin, Richter & Hampton for their work in SDCERS v. Aguirre (No. GIC 841845), People v. Grissom (No. GIC 850246), and Torres v. City (No. GIC 852293);

Payment of court ordered legal fees for Plaintiff Bruce Herring in the amount of \$38,076.90 to Schwartz, Semerdjian, Haile, Ballard & Cauley LLP, for their work in People v. Grissom (No. GIC 850246) and Torres v. City (No. GIC 852293);

Authorize the City Auditor and Comptroller to transfer \$2,219,500.18 from Dept. 602, General Fund Appropriated Reserves, to Dept. 601, Citywide Expenditures, General Fund, Fund 100, for payment of above and future court ordered legal fees;

Authorize the City Auditor and Comptroller to allocate legal fee expenditures across all funds using the allocation;

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

Aud. Cert. 2800426.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:34 p.m. - 4:34 p.m.)

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



ITEM-S503: Continuing Provisions of Legal Services for Former and Current City Officials and Staff Related to SEC, District Attorney, and U.S. Attorneys Investigations.

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-489)                      ADOPTED AS RESOLUTION R-303277

Authorizing an additional amount not to exceed \$425,000 to pay attorney's fees for the representation of past and present City employees related to their participation in interviews and proceedings, including compliance with subpoenas, and in responding to the Securities and Exchange Commission (SEC) report, related to investigations by the SEC, United States Attorneys' Office, and the San Diego District Attorney's Office.

Authorizing the City Auditor and Comptroller to allocate and expend \$425,000 across all funds using an allocation based upon full-time equivalent salaries and authorizing the City Auditor and Comptroller to appropriate and expend \$314,075 from the Public Liability Fund to cover the General Fund portion of the costs, to pay the above described attorney's fees provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Declaring that newly-represented employees or former employees must make use of legal counsel already familiar with and engaged to assist other City clients on the financial disclosures investigation matters, and that, in the event this requirement is not satisfactory to the employee or former employee, that individual shall be required to request a separate authorization for their retention of legal counsel;

Suspending the authorization for the above attorney's fees, if criminal charges are brought against any past or present City employee, and that the City shall reserve its right to terminate the payment of fees and seek reimbursement of fees paid in the event that criminal charges are brought against any past or present employee, or if a conviction is obtained.

**SUPPORTING INFORMATION:**

Requested action relates to additional funding for representation of employees and former employees for the ongoing SEC/US Attorney/District Attorney investigations.

In February of 2004, the SEC and USAO informed the City that they were undertaking investigations into certain financial disclosure practices by the City. Additionally, the District Attorney's Office has initiated its own investigation into the propriety of acts relating to the granting of pension benefits. Also, several City employees have been interviewed and subpoenaed in connection with the investigation and litigation of SDCERS v. Aguirre, et al., SDSC, Case No. GIC 841845.

These investigations remain ongoing, with each agency requesting and/or issuing subpoenas requiring City employees to appear for interview and/or testimony. For the past 6 months, City employees also were responding to the SEC report. In order to facilitate the conduct of necessary interviews and testimony, and yet provide necessary advice to affected City employees, the City Council, acting pursuant to the discretion provided by Government Code Section 995.8, has determined that it is in the best interests of the City to provide independent representation to employees.

The total cost allotted for the representation thus far was \$3,125,000, apportioned among a number of represented individuals pursuant to ongoing contracts, and appropriated as a result of seven requests: \$250,000 (AC 2401177, dated June 17, 2004); \$75,000 (AC 2500664, dated November 14, 2004); \$150,000 (AC 2500688, dated on January 25, 2005); \$200,000 (AC 2500802, dated on March 7, 2005); \$350,000 (AC 2501122, on June 28, 2005); \$500,000 (AC 2600236, dated October 11, 2005); \$450,000 (AC 2600542, dated January 18, 2006); \$250,000 (AC 2600902, dated June 13, 2006); \$750,000 (AC 2700396, dated November 21, 2006) and \$150,000 (AC 2800040, dated July 19, 2007).

Over 30 current and former City employees have requested and/or retained outside legal counsel, and have submitted bills to be reviewed and processed by the City Attorney's Office. These totals do not include elected officials, the former Mayor, Council, and their staff.

Several firms have submitted invoices on behalf of their clients. As of October 31, 2007, the following firms had incurred the largest expenses:

- **Shartsis Friese** - More than \$950,000 for clients including former City Manager Lamont Ewell and former Assistant City Attorney Les Girard;
- **Wertz McDade Wallace Moot & Brower** - More than \$242,000 for client Ed Ryan;

- **DLA Piper Rudnick** - More than \$350,000 on behalf of three clients, including two Deputy City Attorneys; and
- **McKenna Long & Aldridge** - More than \$400,000 on behalf of clients including former City Manager Michael Uberuaga.

It is recommended that the City Attorney continue to execute and monitor the contracts on behalf of the City for the representation of individual current and former City employees. It is also recommended that each employee be permitted to retain only one law firm for representation. To pay outstanding invoices of approximately \$300,000 for outside counsel obligations and \$125,000 for future billings.

FISCAL CONSIDERATIONS:

The Council is being asked to authorize the expenditure of \$425,000 across all funds using an allocation based upon full-time equivalent salaries including \$314,075 from the Public Liability Fund to cover the General Fund portion of the costs.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

As described above, there have been numerous Council actions approving outside counsel fees for counsel retained related to the ongoing Securities Exchange Commission, United States Attorneys Office and District Attorneys Office investigations into City finances, and the litigation of SDCERS v. Aguirre, et al.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Various law firms including the firms of Shartsis Friese; Wertz McDade Wallace Moot & Brower; DLA, Piper Rudnick and McKenna Long & Aldrige.

McGrath

Aud. Cert. 2800425.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:34 p.m. - 4:34 p.m.)

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



ITEM-S504: Funding of Outside Counsel Fees in the Matter related to the People of the State of California and the City of San Diego v. Sunroad Centrum, L.P. (Dist. 6)

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-203)                      ADOPTED AS RESOLUTION R-303278

Authorizing the expenditure of an amount not to exceed \$850,000 for paying attorney's fees for Latham and Watkins, provided that the City Auditor and Comptroller first furnish one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer.

Authorizing the City Auditor and Comptroller to allocate and expend \$850,000 from the Public Liability Fund.

**SUPPORTING INFORMATION:**

The Law Firm of Latham & Watkins has been retained to defend the City in the case of People of State of California and City of San Diego v. Sunroad, SDSC Case No. GIC877054, and provide legal advisory services to the Mayor's Office. The appropriation and allocation of \$850,000 to fund payment of attorneys' fees is requested.

FISCAL CONSIDERATIONS: N/A

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

This item was considered in closed session on July 31, 2007. The motion passed 5-2 with motion by Council President Peters and seconded by Councilmember Atkins with Councilmember Maienschein absent. Councilmember's Madaffer and Hueso opposed the recommendation.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** N/A

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Law Firm of Latham & Watkins, Chris Garrett, lead attorney.

Fitzgerald

Aud. Cert. 2800310.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:34 p.m. - 4:35 p.m.)

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

**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: 2:05 p.m. - 2:09 p.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 7:26 p.m. in honor of the memory of:

Julio Arreola at the request of Council Member Atkins.

FILE LOCATION:            AGENDA

COUNCIL ACTION:            (Time duration: 7:26 p.m. - 7:28 p.m.)