

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL
AND COMMUNITY DEVELOPMENT COMMISSION
OF NATIONAL CITY, CALIFORNIA**

September 6, 2011

The Regular Meeting of the City Council and Community Development Commission of National City was called to order at 6:11 p.m. by Mayor / Chairman Ron Morrison.

ROLL CALL

Council / Commission members present: Morrison, Natividad, Rios, Sotelo-Solis, Zarate.

Administrative Officials present: Dalla, Deese, Duong, Gonzales, Parra, Raulston, Silva, Smith, Stevenson, Williams, Zapata.

Others present: City Treasurer Mitch Beauchamp and Student Representatives Aileen Horta and Leemaylin Avila.

PLEDGE OF ALLEGIANCE TO THE FLAG BY MAYOR RON MORRISON

PUBLIC ORAL COMMUNICATIONS

Brian Clapper, on behalf of the Library Board of Trustees, provided an update on the annual summer reading program held by the Library and expressed appreciation on behalf of the Board to Trustees to Friends of the Library, Vice Mayor Sotelo-Solis, Councilmember Rios and Children's Librarian Steve Schimminger.

PRESENTATIONS

COUNCIL MEETING PRESENTATIONS 2011 (102-10-6)

1. Update by Jess VanDeventer, National City Representative on San Diego Metropolitan Transit System Board.

PRESENTATIONS (cont.)

COUNCIL MEETING PRESENTATIONS 2011 (102-10-6)

2. Presentation by AT&T of \$600 donation to the outgoing Council Student Representative Samantha Galicia for a laptop computer and introduction of two Council Student Representatives. (Council initiated)

ACTION: Catharine Moore AT&T Representative, presented a check to Samantha Galicia for a lap top computer.

Sweetwater High School Principal Ramon Del Rosario introduced the two new Council Student Representatives, Aileen Horta and Leemaylin Avila. Principal Del Rosario also announced that Sweetwater High earned the highest gain in the County in their State API student achievement score and exceeded the benchmark goal of 800.

PROCLAMATION

PROCLAMATION ADMIN (102-2-1)

3. Proclaiming the month of September 2011 as: **"NATIONAL PREPAREDNESS MONTH"**

INTERVIEWS AND APPOINTMENTS

BOARDS & COMMISSIONS ADMIN (101-1-1)

4. Interviews and Appointments – Various Boards & Commissions. (City Clerk)

ACTION: Mr. Wayne English was interviewed.

CITY COUNCIL

CONSENT CALENDAR

ADOPTION OF CONSENT CALENDAR. Item No. 5 (Minutes), Item No. 6 (NCMC), Item Nos. 7 through 16 (Resolution Nos. 2011-188 through 2011-197), Item Nos. 17 through 21 (TUP), Item Nos. 22 through 24 (Warrant Registers). Motion by Zarate, seconded by Sotelo-Solis, to pull Item Nos. 7 and 17, and to approve the remainder of the Consent Calendar. Carried by unanimous vote.

APPROVAL OF MINUTES

5. **SUBJECT:** Approval of the Minutes of the Regular City Council /Community Development Commission Meeting of August 16, 2011 and Special Meeting of August 24, 2011. (City Clerk)

ACTION: Approved. See above.

CONSENT CALENDAR (cont.)

MUNICIPAL CODE 2011 (506-2-26)

6. APPROVAL OF A MOTION TO WAIVE READING OF THE TEXT OF THE ORDINANCES CONSIDERED AT THIS MEETING AND PROVIDES THAT SUCH ORDINANCES SHALL BE INTRODUCED AND/OR ADOPTED AFTER A READING OF THE TITLE ONLY. (City Clerk)

ACTION: Approved. See above.

PARKING & TRAFFIC CONTROL ADMIN 2011 (801-2-32)

7. Resolution No. 2011-188. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AUTHORIZING THE INSTALLATION OF A BLUE CURB HANDICAP PARKING SPACE WITH SIGN IN FRONT OF THE RESIDENCE AT 2432 SEAWIND DRIVE. (Traffic Safety Committee Item No. 2011-18) (Development Services/Engineering) **Continued from Council Meeting of August 2, 2011**

ACTION: Motion by Rios, seconded by Zarate, to adopt the Resolution. FAILED by the following vote, to-wit: Ayes: Rios, Zarate. Nays: Morrison, Sotelo-Solis. Abstain: Natividad. Absent: None.

PARKING & TRAFFIC CONTROL ADMIN 2011 (801-2-32)

8. Resolution No. 2011-189. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AUTHORIZING THE INSTALLATION OF A BLUE CURB HANDICAP PARKING SPACE WITH SIGN IN FRONT OF THE RESIDENCE AT 14 E. 3RD STREET. (Traffic Safety Committee Item No. 2011-22) (Development Services/Engineering)

ACTION: Adopted. See above.

PARKING & TRAFFIC CONTROL ADMIN 2011 (801-2-32)

9. Resolution No. 2011-190. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AUTHORIZING THE CONVERSION OF 20 FEET OF EXISTING RED CURB "NO PARKING" TO GREEN CURB 30-MINUTE PARKING, ADJACENT TO "LA CANASTA 99 CENTS AND MORE" LOCATED AT 322 HIGHLAND AVENUE. (Traffic Safety Committee Item No. 2011-21) (Development Services/Engineering)

ACTION: Adopted. See above.

CONSENT CALENDAR (cont.)

CONTRACT (C2010-54)

10. Resolution No. 2011-191. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY ACCEPTING THE WORK PERFORMED BY OHNO CONSTRUCTION, INC. WITH THE FINAL AMOUNT OF \$626,708.25, AUTHORIZING THE FILING OF THE NOTICE OF COMPLETION WITH THE COUNTY RECORDER, AND AUTHORIZING FINAL PAYMENT (RETENTION) FOR THE NATIONAL CITY EL TOYON SOCCER FIELD PROJECT, SPECIFICATION NO. 07-01. (Funded by Parks and Recreation Capital Outlay, Sewer Services and Community Development Block Grant funds) (Development Services/Engineering)

ACTION: Adopted. See above.

ENGINEERING DEPT – GRANTS / REPORTS ADMIN (1104-1-1)

11. Resolution No. 2011-192. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AUTHORIZING THE CITY MANAGER TO EXECUTE ALL COMMUNITY-BASED TRANSPORTATION PLANNING (CBTP) GRANT DOCUMENTS REQUIRED BY CALTRANS FOR PREPARATION OF A COMPREHENSIVE CITYWIDE SUSTAINABLE TRANSPORTATION SYSTEMS PLAN TO ENHANCE MOBILITY, ACCESS AND SAFETY, AND APPROPRIATING FUNDS FOR THE PROJECT (\$300,000 CBTP GRANT; \$75,000 REQUIRED GRANT MATCH AVAILABLE THROUGH 2011 TAX ALLOCATION BOND (CAPITAL IMPROVEMENT) – GATEWAY & SIGNAGE IMPROVEMENTS). (Development Services/Engineering)

ACTION: Adopted. See above.

GRANT / PUBLIC WORKS (206-4-23)

12. Resolution No. 2011-193. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY ACCEPTING A GRANT AWARD FROM THE CALIFORNIA DEPARTMENT OF RESOURCES AND RECOVERY IN THE AMOUNT OF \$15,378 TO PROVIDE A BEVERAGE CONTAINER RECYCLING PROGRAM AND EQUIPMENT AS WELL AS PUBLIC EDUCATION IN THE CITY OF NATIONAL CITY ELEMENTARY SCHOOL DISTRICT. These programs are funded by the grant award and have no impact to the General Fund. (Public Works)

ACTION: Adopted. See above.

CONSENT CALENDAR (cont.)

GRANT / PUBLIC SAFETY (206-4-27)

13. Resolution No. 2011-194. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AUTHORIZING ACCEPTANCE OF GRANT AWARD OF \$103,429.00 FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY FOR THE SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT PROJECT TO CONDUCT DRIVING UNDER THE INFLUENCE AND TRAFFIC RELATED ENFORCEMENT OPERATIONS AND PURCHASE OF LIGHT DETECTION AND RANGING (LIDAR) SPEED DETECTION DEVICES, PRELIMINARY ALCOHOL SCREENING (PAS) DEVICES, LIGHT TOWER AND GENERATOR, TRAFFIC TRAINING AND MISCELLANEOUS SUPPLIES. (Police Department)

ACTION: Adopted. See above.

CONTRACT (C2011-39)

14. Resolution No. 2011-195. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY APPROVING A SERVICE AGREEMENT BY AND BETWEEN THE CITY OF NATIONAL CITY, WILLIS INSURANCE SERVICES OF CALIFORNIA, INC. AND PAYCHEX BENEFIT TECHNOLOGIES, INC. DBA BENE TRAC FOR THE PROCUREMENT AND DEPLOYMENT OF AN ELECTRONIC ENROLLMENT AND ADMINISTRATIVE SYSTEM FOR GROUP EMPLOYEE BENEFITS. (Human Resources)

ACTION: Adopted. See above.

COUNCIL POLICY MANUAL (102-13-1)

15. Resolution No. 2011-196. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY ESTABLISHING A NEW CITY COUNCIL POLICY NO. 402 PERTAINING TO DEVELOPMENT AGREEMENTS. (City Attorney)

ACTION: Adopted. See above.

MUNICIPAL CODE 2011 (506-2-26)

16. Resolution No. 2011-197. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY APPROVING AND AUTHORIZING ISSUANCE OF A WRITTEN REPORT PERTAINING TO A MORATORIUM ORDINANCE PROHIBITING NEW PAWNBROKER, SECONDHAND, AND PRECIOUS METAL DEALING AND ESTABLISHMENTS IN NATIONAL CITY. (City Attorney) **Companion Items #25 & #27**

ACTION: Adopted. See above.

CONSENT CALENDAR (cont.)

TEMPORARY USE PERMITS 2011 (203-1-27)

17. Temporary Use Permit – Solid MC 2nd Annual Dance hosted by the Sweetwater Harley Davidson at 3201 Hoover Avenue on September 10, 2011 from 8:30 pm to 1:30 am with no waiver of fees. (Neighborhood Services Division)

ACTION: Motion by Natividad, seconded by Sotelo-Solis, to approve the Temporary Use Permit. Carried by unanimous vote.

TEMPORARY USE PERMITS 2011 (203-1-27)

18. Temporary Use Permit – Request from North Star Gas LTD Company to operate a temporary transfer site at 2101 Tidelands Avenue from September 20, 2011 to September 20, 2012 with no waiver of fees. (Neighborhood Services Division)

ACTION: Approved. See above.

TEMPORARY USE PERMITS 2011 (203-1-27)

19. Temporary Use Permit – Heart Revolution Conference 2011 sponsored by Cornerstone Church of San Diego at 1914 Sweetwater Road on September 22 thru September 30, 2011 from 5 p.m. to 10 p.m. with no waiver of fees. (Neighborhood Services Division)

ACTION: Approved. See above.

TEMPORARY USE PERMITS 2011 (203-1-27)

20. Temporary Use Permit – Foodland Market's 20th Anniversary event hosted by Dallo Enterprises at 303 Highland Avenue on September 25, 2011 from 11 a.m. to 7 p.m. with no waiver of fees. (Neighborhood Services Division)

ACTION: Approved. See above.

TEMPORARY USE PERMITS 2011 (203-1-27)

21. Temporary Use Permit – St. Mary's Fall Festival & Fund Raiser hosted by St. Mary's on October 2, 2011 at the parish grounds located on 426 E. 7th Street from 7 a.m. to 6:30 p.m. with no waiver of fees. (Neighborhood Services Division)

ACTION: Approved. See above.

WARRANT REGISTER JULY 2011 – JUNE 2012 (202-1-26)

22. Warrant Register #5 for the period of 07/27/11 through 08/02/11 in the amount of \$6,955,043.68. (Finance)

ACTION: Ratified. See above

CONSENT CALENDAR (cont.)

WARRANT REGISTER JULY 2011 – JUNE 2012 (202-1-26)

23. Warrant Register #6 for the period of 08/03/11 through 08/09/11 in the amount of \$1,655,600.06. (Finance)
ACTION: Ratified. See above

WARRANT REGISTER JULY 2011 – JUNE 2012 (202-1-26)

24. Warrant Register #7 for the period of 08/10/11 through 08/16/11 in the amount of \$1,760,424.63. (Finance)
ACTION: Ratified. See above.

PUBLIC HEARING

MUNICIPAL CODE 2011 (506-2-26)

25. Public Hearing to consider adoption of an Interim Ordinance of the City Council of the City of National City pursuant to Government Code Section 65858 as an Urgency Measure to take effect immediately, enacting a Moratorium prohibiting new pawnbroker, secondhand, and precious metal dealing and establishments in National City. (City Attorney) **Companion Items #16 & #27**
RECOMMENDATION: Hold Public Hearing.
TESTIMONY: None.
ACTION: Motion by Sotelo-Solis, seconded by Zarate, to close the Public Hearing. Carried by unanimous vote.

ORDINANCE FOR INTRODUCTION

MUNICIPAL CODE 2011 (506-2-26)

26. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AMENDING TITLE 6 OF THE NATIONAL CITY MUNICIPAL CODE BY AMENDING SECTION 6.04.140 PERTAINING TO BUSINESS TAX LICENSES TO BE CONSISTENT WITH REGULATORY CODES, AND RESULTING IN THE STREAMLINING OF THE PROCESS FOR BUSINESS LICENSE ISSUANCE. (City Attorney)

URGENCY ORDINANCE FOR ADOPTION

MUNICIPAL CODE 2011 (506-2-26)

27. AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY ADOPTED PURSUANT TO GOVERNMENT CODE SECTION 65858 AS AN URGENCY MEASURE TO TAKE EFFECT IMMEDIATELY, EXTENDING FOR 10 MONTHS AND 15 DAYS A MORATORIUM PROHIBITING NEW PAWNBROKER, SECONDHAND, AND PRECIOUS METAL DEALING AND ESTABLISHMENTS IN NATIONAL CITY. (City Attorney) **Companion Items #16 & #25**

RECOMMENDATION: Adopt the Ordinance.

TESTIMONY: None.

ACTION: Motion by Rios, seconded by Sotelo-Solis, to adopt the Ordinance. Carried by unanimous vote.

ORDINANCE FOR ADOPTION

MUNICIPAL CODE 2011 (506-2-26)

28. AN ORDINANCE AMENDING TITLE 18 OF THE MUNICIPAL CODE BY ADOPTING THE AMENDED OFFICIAL ZONING MAP IN FURTHERANCE OF THE IMPLEMENTATION OF THE GENERAL PLAN LAND USE MAP ADOPTED BY CITY COUNCIL ON JUNE 7, 2011. (Development Services)

RECOMMENDATION: Adopt the Ordinance.

TESTIMONY: None.

ACTION: Motion by Sotelo-Solis, seconded by Rios, to adopt the Ordinance. Carried by unanimous vote.

NON CONSENT RESOLUTIONS

CONTRACT (C2010-28)

BD OF PORT COMM NC PORT CIP (701-5-2)

29. Resolution No. 2011-198. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE SAN DIEGO UNIFIED PORT AND THE CITY OF NATIONAL CITY PROVIDING \$830,000 IN PORT FUNDING AS A MATCH TO 2011 TAX ALLOCATION BONDS FOR THE NATIONAL CITY AQUATIC CENTER, AND RATIFYING THE ASSIGNMENT BY THE PORT AND THE ASSUMPTION BY THE CITY OF THE LEASE OF PROPERTY AT GOESNO PLACE (PORT CAPITAL FUNDING). (Redevelopment/Special Projects)

RECOMMENDATION: Adopt the Resolution.

NON CONSENT RESOLUTIONS (cont.)

CONTRACT (C2010-28)

BD OF PORT COMM NC PORT CIP (701-5-2)

29. Resolution No. 2011-198 (continued).

TESTIMONY: A PowerPoint presentation was made by staff, YMCA representatives and the project architect. (Copy on file in the Office of the City Clerk)

Tina Williams, Executive Director of the South Bay Family YMCA spoke in support and responded to questions.

Ricardo Rabines, project architect, reviewed the design features and responded to questions.

Vince Ferrer, Board Member of the YMCA, spoke in support of the project.

ACTION: Motion by Sotelo-Solis, seconded by Natividad, to adopt the Resolution. Carried by unanimous vote.

CONTRACT (C2011-23)

BD OF PORT COMM NC PORT CIP (701-5-2)

30. Resolution No. 2011-199. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY APPROVING AN AGREEMENT BY AND BETWEEN THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AND SAFDIE RABINES ARCHITECTS NOT TO EXCEED \$291,777 FOR ARCHITECTURAL SERVICES RELATED TO THE NATIONAL CITY AQUATIC CENTER. (2011 Tax Allocation Bonds) (Redevelopment/Special Projects)

RECOMMENDATION: Adopt the Resolution.

TESTIMONY: None.

ACTION: Motion by Sotelo-Solis, seconded by Zarate, to adopt the Resolution. Carried by unanimous vote.

CONTRACT (C2011-25)

BD OF PORT COMM NC PORT CIP (701-5-2)

31. Resolution No. 2011-200. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY APPROVING AN AGREEMENT BY AND BETWEEN THE CITY OF NATIONAL CITY AND PROJECT PROFESSIONALS CORPORATION NOT TO EXCEED \$224,599 FOR PROJECT MANAGEMENT SERVICES RELATED TO THE CONSTRUCTION OF THE NATIONAL CITY AQUATIC CENTER. (2011 Tax Allocation Bonds) (Redevelopment/Special Projects)

RECOMMENDATION: Adopt the Resolution.

TESTIMONY: None.

ACTION: Motion by Sotelo-Solis, seconded by Rios, to adopt the Resolution. Carried by unanimous vote.

NEW BUSINESS

TOWING SERVICES POLICY ADMIN (C89-12) (806-1-1)

32. The City of National City Towing Committee's responses to objections raised by towing contractors, and Committee recommendation of Tom Moynahan Towing & Road One Towing as the top two ranked tow contractors based on best overall value to the City. (Police & Finance)

RECOMMENDATION: The Towing Contract Committee recommends that the Contract be awarded to Tom Moynahan Towing and Road One Towing.

TESTIMONY: Staff Report by Assistant City Manager Leslie Deese.

Augie Bareno from ABCO Consulting, representing Moynahan Towing, spoke in support of the staff recommendation.

Estivan Espinoza, National City, spoke in support of having several tow companies under contract.

Lilian Habib, Angelo's Towing, spoke in support of awarding contracts to all three qualified contractors.

Mark Arabo, Neighborhood Market Association, spoke in support of Angelo's Towing.

Marco Polo Cortez, representing American Towing, spoke against the staff recommendation and urged that the RFP be re-issued.

WRITTEN TESTIMONY: Staff reported that a letter was received on September 1, 2011 from Mr. Marco A. Torres, representing Cortez Towing, disputing the manner, method and ultimate conclusions presented to the City Council regarding its qualifications pursuant to the RFP. The letter is included as part of the record. (See attached Exhibit 'A')

ACTION: Motion by Natividad, to consider each company separately. Motion died for lack of a second. Motion by Rios, seconded by Zarate, to approve staff recommendation. Carried by the following vote, to-wit: Ayes: Morrison, Rios, Sotelo-Solis, Zarate. Nays: Natividad. Abstain: None. Absent: None.

MARTIN LUTHER KING JR. COMMUNITY CENTER (1101-5-1)

33. Request from California State Senator Juan Vargas on behalf of California State Controller John Chiang, to use the Martin Luther King Jr. Community Center (North Room) for a Small Business Tax Seminar on Thursday, September 15, 2011, from 8:00 am to 2:00 pm for approximately 250 attendees. Applicant is requesting a fee waiver. (Public Works)

RECOMMENDATION: Authorize use.

TESTIMONY: Arron Allen, representative of Senator Juan Vargas, spoke in support.

NEW BUSINESS

MARTIN LUTHER KING JR. COMMUNITY CENTER (1101-5-1)

33. Request from California State Senator Juan Vargas on behalf of California State Controller John Chiang, to use the Martin Luther King Jr. Community Center (continued).

ACTION: Motion by Natividad, seconded by Sotelo-Solis, to approve partial fee waiver and for applicant to pay \$380. Carried by unanimous vote.

LEAGUE OF CA CITIES ADMIN (104-2-1)

34. City Council Review of League of California Cities 2011 Annual Conference Resolutions. (City Manager)

RECOMMENDATION: The League encourages City Councils to consider the Resolutions and determine a City position so their voting delegate(s) can represent their position during the conference and/or provide a report back to Council on action taken by the League on the Resolutions. If there is any particular direction that the Council would like to provide, direction tonight would be appropriate.

TESTIMONY: None.

ACTION: No action was taken.

BOARDS & COMMISSIONS ADMIN (101-1-1)

35. Proposition "D" Independent Committee. (City Manager)

RECOMMENDATION: None.

TESTIMONY: None.

ACTION: Mayor Morrison nominated Mr. Dale Nielson, Finance Manager for the City of Vista, as the third and final member of the Proposition "D" Independent Committee. Motion by Sotelo-Solis, seconded by Zarate, to appoint Dale Nielson to the committee. Carried by unanimous vote.

COMMUNITY DEVELOPMENT COMMISSION

CONSENT CALENDAR

ADOPTION OF CONSENT CALENDAR. Item Nos. 36 through 38 (Warrant Registers), Item Nos. 39 and 40 (Resolution Nos. 2011-201 and 2011-202). Motion by Sotelo-Solis, seconded by Zarate, to approve the Consent Calendar. Carried by unanimous vote.

CONSENT CALENDAR (cont.)

WARRANT REGISTER JULY 2011 – JUNE 2012 (202-1-26)

36. Authorize the reimbursement of Community Development Commission expenditures in the amount of \$\$66,258.02 to the City of National City for the period of 7/27/11 through 08/02/11. (Finance)

ACTION: Approved. See above.

WARRANT REGISTER JULY 2011 – JUNE 2012 (202-1-26)

37. Authorize the reimbursement of Community Development Commission expenditures in the amount of \$26,068.40 to the City of National City for the period of 08/03/11 through 08/09/11. (Finance)

ACTION: Approved. See above.

WARRANT REGISTER JULY 2011 – JUNE 2012 (202-1-26)

38. Authorize the reimbursement of Community Development Commission expenditures in the amount of \$1,133,203.11 to the City of National City for the period of 08/10/11 through 08/16/11. (Finance)

ACTION: Approved. See above.

CONTRACT (C2010-76)

39. Resolution No. 2011-201. RESOLUTION OF THE COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF NATIONAL CITY (CDC) APPROVING AN AGREEMENT BY AND BETWEEN THE COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF NATIONAL CITY AND E2 MANAGETECH, INC. NOT TO EXCEED \$98,000 FOR OVERSIGHT AND IMPLEMENTATION OF A PROPERTY MITIGATION PLAN FOR THE WESTSIDE INFILL TRANSIT ORIENTED DEVELOPMENT. (Low Moderate Housing Funds) (Redevelopment/ Special Projects)

ACTION: Adopted. See above.

CONTRACT (C2011-40)

40. Resolution No. 2011-202. RESOLUTION OF THE COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF NATIONAL CITY (CDC) AUTHORIZING ITS CHAIRMAN TO EXECUTE A SUBORDINATION AGREEMENT WITH MIGUEL S. HERNANDEZ AND ALICIA B. HERNANDEZ ALLOWING A NEW MORTGAGE NOT-TO-EXCEED \$196,000 TO BE AND REMAIN A LIEN PRIOR AND SUPERIOR TO A FIRST-TIME HOME BUYER ASSISTANCE LOAN OF \$25,000 ISSUED BY THE CDC ON A SINGLE-UNIT PROPERTY LOCATED AT 1334 TECOLOTE COURT IN NATIONAL CITY. (Administrative Services)

ACTION: Adopted. See above.

STAFF REPORTS

ENGINEERING DEPT – GRANTS / REPORTS ADMIN (1104-1-1)

41. Update on Citywide Bus Stop Inventory and Bus Shelter grant.
(Development Services)

ACTION: Staff indicated that a brief formal presentation will be made at the next meeting.

CLOSED SESSION REPORT (509-1-4)

42. Closed Session Report. (City Attorney)
City Council / CDC Attorney Claudia Silva stated there was nothing to report from the Closed Session. (See attached Exhibit 'L')

Assistant City Manager Leslie Deese introduced the City's new Financial Services Officer, Tina Norrdin.

MAYOR AND CITY COUNCIL

Member Natividad requested information on the total amount of grants the City has received in the last two years.

Vice Mayor Sotelo-Solis commended the staff on the thorough report provided on the towing issue. Member Sotelo-Solis also advised that she would be in Washington D.C. for a Health Communities Conference and graduation event for Hispania's Organized for Political Equality (HOPE) and would not be present for the 9/11 Ceremony at the Fire Station.

Member Rios thanked staff for their work on the towing contract and urged everyone to attend the September 11th Memorial Event at the Fire Station.

Member Zarate said she had some housing and code enforcement issues to refer to staff.

Mayor Morrison discussed the proliferation of illegal sign pollution throughout the City and the need to find some way to hold people accountable for their graffiti.

City Treasurer Mitch Beauchamp reported that 18 companies submitted proposals to provide Investment Management Services to the City.

ADJOURNMENT

CONSIDERATION OF MEETING DATE CHANGE

Motion by Rios, seconded by Sotelo-Solis to, a) Approve a motion dispensing with the September 20, 2011 Regular Meeting; b) Authorize a Notice of Continuance for the Public Hearing previously noticed for September 20, 2011 pursuant to Government Code Section 54955.1, and c) Adjourn the Meeting of September 6, 2011 to an Adjourned Regular Meeting of the City Council to be held on September 27, 2011. Carried by unanimous vote.

Adjourned Regular City Council and Community Development Commission Meeting to be held Tuesday, September 27, 2011 at 6:00 p.m. at the Council Chambers, National City, California.

The meeting closed at 8:37 p.m.



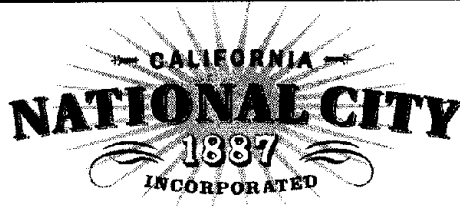
City Clerk / Recording Secretary

The foregoing minutes were approved at the Adjourned Regular Meeting of September 27, 2011.



Mayor / CDC Chairman

EXHIBIT 'L'



AGENDA OF A SPECIAL MEETING

CITY COUNCIL OF THE CITY OF NATIONAL CITY
AND
THE COMMUNITY DEVELOPMENT COMMISSION
OF THE CITY OF NATIONAL CITY
AND
THE PARKING AUTHORITY OF THE CITY OF NATIONAL CITY

Main Conference Room
Civic Center
1243 National City Boulevard
National City, California

Special Meeting - Tuesday, September 6, 2011 - 4:30 p.m.

ROLL CALL

CLOSED SESSION

CITY COUNCIL

1. Conference with Labor Negotiators – Government Code Section 54957.6
Agency Designated Representatives: Leslie Deese, Manuel Rodriguez,
Stacey Stevenson, Claudia Silva, Teresa Mendoza, and Eddie Kreisberg
Employee Organization: Police Officers' Association
2. Liability Claims – Government Code Section 54956.95
Workers' Compensation Claim
Agency Claimed Against: City of National City
Number of Claims: Three
3. Conference with Legal Counsel – Existing Litigation
Government Code Section 54956.9(a)
City of National City v. Nagraj, Inc.
San Diego Superior Court Case No. 37-2010-00077984-CU-EI-SC
4. Conference with Legal Counsel – Existing Litigation
Government Code Section 54956.9(a)
City of National City v. Al-Bayati
San Diego Superior Court Case No. 37-2010-00078027

CLOSED SESSION (cont.)

CITY COUNCIL

5. Conference with Legal Counsel – Existing Litigation
Government Code Section 54956.9(a)
City of National City v. Puedan
San Diego Superior Court Case No. 37-2010-00077983
6. Conference with Legal Counsel – Existing Litigation
Government Code Section 54956.9(a)
Victor Nuñez, v. City of National City, National City Planning Commission, et al.
San Diego County Superior Court Case No. 37-2011-00078086-CU-MC-SC
7. Conference with Legal Counsel – Existing Litigation
Government Code Section 54956.9(a)
Community Youth Athletic Center v. City of National City, Community Development Commission of the City of National City, et al.
San Diego County Superior Court Case No. GIS 37-2007-0007604-CU-EI-CTL
8. Conference with Legal Counsel – Anticipated Litigation
Initiation of Litigation Pursuant to Government Code Section 54956.9(c)
One Potential Case

COMMUNITY DEVELOPMENT COMMISSION

1. Conference with Legal Counsel – Existing Litigation
Government Code Section 54956.9(a)
Community Youth Athletic Center v. City of National City, Community Development Commission of the City of National City, et al.
San Diego County Superior Court Case No. GIS 37-2007-0007604-CU-EI-CTL
2. Conference with Legal Counsel – Existing Litigation
Government Code Section 54956.9(a)
ARE Holding, LLC v. Community Development Commission and Parking Authority, et al.
San Diego County Superior Court Case No. 37-2010-00102387-CU-BC-CTL

PARKING AUTHORITY OF THE CITY OF NATIONAL CITY

1. Conference with Legal Counsel – Existing Litigation
Government Code Section 54956.9(a)
ARE Holding, LLC v. Community Development Commission and Parking Authority, et al.
San Diego County Superior Court Case No. 37-2010-00102387-CU-BC-CTL

ADJOURNMENT

Next Regular City Council/CDC Meeting – Tuesday, September 6, 2011, 6:00 p.m., Council Chambers, Civic Center



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September 1, 2011

VIA Facsimile, Federal Express and Email

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National City Police Department
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RE: Cortes Towing Enterprises, Inc.
RFP # GS1011-4

Ladies and Gentlemen:

The undersigned has been retained by Cortes Towing Enterprises, Inc. (hereinafter "Cortes Towing") to represent it and its concerns regarding National City Towing Services RFP # GS1011-4 (the "RFP"). This letter should serve to provide notice to the National City City Counsel (the "City Counsel") that Cortes Towing disputes the manner, method, and ultimate conclusions presented to the City Counsel regarding its qualifications pursuant to the RFP. Cortes Towing demands that the current RFP eligibility list include Cortes Towing or, alternatively, the RFP process should be reinitiated and provide a review by disinterested and objective third parties.

The report provided to the City Counsel reflecting Officer Dan Fabinski's apparent observations is factually inaccurate, biased and based on unfounded speculation and opinion as regards Cortes Towing's qualifications. Officer Fabinski's report presented to the City Counsel calls into question Officer Fabinski's competence and ability to adequately assess potential contractors that do not currently have an on-going relationship with National City.

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EXHIBIT 'A'

The report inaccurately states that Cortes Towing does not currently have a heavy duty tow trucks *per the requirements of the RFP*. The RFP *does not* require a heavy duty tow truck but rather requires the following:

“The Contractor shall provide equipment capable of providing the following services:

1. ***Towing of large oversized vehicles;***
2. Towing from off road areas;
3. Towing in underground garages;
4. Wheel lift towing; and
5. Rollback Towing.”

(pg. 15, Section III.E. of the RFP)

Pursuant to the RFP, there are three towing size designations:

1. Basic Towing for vehicles under 9,500 GVW (unloaded);
2. Medium Size – Basic Towing for vehicles exceeding 9,500 GVW but less than 22,000 GVQ (unloaded); and
3. ***Large Size – Basic Towing for vehicles over 22,000 GVW (unloaded).***

(pg. 19, Attachment A of the RFP)

Contrary to Officer Fabinski’s report, Cortes Towing *has* a tow vehicle capable of towing large size vehicles over 22,000 GVW (unloaded).

Pursuant to 2011 California Highway Patrol Standards a Heavy Duty Tow Truck is a truck that is capable of towing vehicles in excess of 48,000 GVW (unloaded). (Section 9(c)(4), pg. 15, State of California, Department of California Highway Patrol CHP 234 (03-2011) OPI 061) (hereinafter the “CHP Standards”). In as much as this is what caused Officer Fabinski to determine that Cortes Towing did not have a Heavy Duty Tow Truck is an issue of fact which has no bearing on Cortes Towing’s eligibility pursuant to the RFP requirements. Nevertheless, this is not a requirement under the RFP and therefore it is not a valid reason to make any party ineligible for consideration as a contractor.

The report inaccurately states that Cortes Towing “displayed an older model, dismantled truck as their future off-road vehicle.” During the walk through inspection of the facilities, Officer Fabinski asked Paulo Cortes to identify the Off-Road vehicle and Mr. Cortes identified a vehicle that was approximately 25-30 feet away. Officer Fabinski did not approach, inspect, or otherwise request additional information about the vehicle. The vehicle identified is fully operational, was represented as *the* Cortes Towing off-road vehicle, and not dismantled as inaccurately described by Officer Fabinski.

The report further calls into question whether Cortes Towing can meet the RFP response time requirements and tow priorities without providing any basis for this opinionated conclusion and only serves to negatively imply such concern as a result of being a large service provider to the



well recognized and respected AAA. Abject speculation and opinion should not be a basis upon which any determination should be made regarding Cortes Towing's ability to fulfill its obligations. Officer Fabinski does not offer any valid reason to substantiate his biased and opinionated conclusion.

It must also be noted that at least one of the eligible contractors considered to have met the RFP requirements may not currently have a CHP eligible off-road vehicle as required pursuant to the RFP. If Officer Fabinski waived this requirement for any one prospective contractor this opportunity for a waiver should have been afforded to all of the applicants.

It is our position that the method and manner which Officer Fabinski undertook to determine whether potential contractors, specifically Cortes Towing, met RFP requirements was flawed, and biased thereby causing Cortes Towing to be deemed ineligible to be considered a contractor.

In closing, I renew Cortes Towing's demand that it be accurately reflected as a eligible contractor that *meets* RFP requirements and thereby eligible to be selected as one of the towing contractors or alternatively demand that the RFP process be reopened with an RFP that does not provide ample opportunity for eligibility based on false conclusions, unsubstantiated statements, misrepresentation of RFP requirements, misapplication of requirements, bias and unfair treatment by an officer that is displaying clear animosity and bias in his decision making for the sole benefit of current contractors which do not meet existing RFP requirements.

I look forward to hearing from you promptly in order to resolve this matter promptly and thereby avoid further legal action in this matter.

Sincerely,

Marco A. Torres, Esq.

cc: Ron Morrison, Mayor
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