

Council Meeting Agenda

NOVEMBER 10, 2010

CITY COUNCIL CHAMBERS ~ 4:00 P.M.

201 N. Broadway, Escondido, CA 92025

MAYOR	Lori Holt Pfeiler
MAYOR PRO TEM	Dick Daniels
COUNCIL MEMBERS	Sam Abed
	Olga Diaz
	Marie Waldron
CITY MANAGER	Clay Phillips
CITY CLERK	Marsha Whalen
CITY ATTORNEY	Jeffrey Epp
DIRECTOR OF COMMUNITY DEVELOPMENT	Barbara Redlitz
DIRECTOR OF ENGINEERING SERVICES	Ed Domingue

ELECTRONIC MEDIA:

Electronic media which members of the public wish to be used during any public comment period should be submitted to the City Clerk's Office at least 24 hours prior to the Council meeting at which it is to be shown.

The electronic media will be subject to a virus scan and must be compatible with the City's existing system. The media must be labeled with the name of the speaker, the comment period during which the media is to be played and contact information for the person presenting the media.

The time necessary to present any electronic media is considered part of the maximum time limit provided to speakers. City staff will queue the electronic information when the public member is called upon to speak. Materials shown to the Council during the meeting are part of the public record and may be retained by the Clerk.

The City of Escondido is not responsible for the content of any material presented, and the presentation and content of electronic media shall be subject to the same responsibilities regarding decorum and presentation as are applicable to live presentations.



Council Meeting Agenda

**NOVEMBER 10, 2010
4:00 p.m. Meeting**

**Escondido City Council
Community Development Commission**

CALL TO ORDER

FLAG SALUTE

ROLL CALL: Abed, Daniels, Diaz, Waldron, Pfeiler

PROCLAMATIONS: National American Heritage Day

ORAL COMMUNICATIONS

At this time the public may comment on items not appearing on the agenda. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. (Please refer to the back page of the agenda for instructions.)

CONSENT CALENDAR

Items on the Consent Calendar are not discussed individually and are approved in a single motion. However, Council members always have the option to have an item considered separately, either on their own request or at the request of staff or a member of the public

1. **AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/CDC/RRB)**
2. **APPROVAL OF WARRANT REGISTER (Council/CDC)**
3. **APPROVAL OF MINUTES: Regular Meeting of October 6, 2010**

4. **CALPERS INDUSTRIAL DISABILITY RETIREMENT OF GEORGE LACKERDAS** – Request Council authorize the Industrial Disability Retirement of Police Officer George Lackerdas

Staff Recommendation: Approval (**Human Resources: Sheryl Bennett**)

RESOLUTION NO. 2010-169

5. **NOTICE OF COMPLETION FOR TRACT 855, CANYON CREST DEVELOPMENT (ADDRESSED AS 2264 CANYON CREST DRIVE)** – Request Council authorize staff to file a Notice of Completion for Tract 855, an eighteen lot single-family residential subdivision located at 2264 Canyon Crest Drive (Canyon Crest Development)

Staff Recommendation: Approval (**Engineering Services: Ed Domingue**)

6. **FISCAL 2011 OFFICE OF TRAFFIC SAFETY CALIFORNIA SEAT BELT COMPLIANCE CAMPAIGN GRANT** – Request Council authorize the Escondido Police Department to accept a FY 2011 California Seat Belt Compliance Campaign Grant from the Office of Traffic Safety in the amount of \$3,788; authorize the Chief of Police to execute contract documents on behalf of the City; and approve budget adjustments needed to spend grant funds

Staff Recommendation: Approval (**Police Department: Jim Maher**)

7. **FISCAL YEAR 2011 OFFICE OF TRAFFIC SAFETY SOBRIETY CHECKPOINT MINI-GRANT** Request Council authorize the Escondido Police Department to accept a FY 2011 Sobriety Checkpoint Mini-grant from the Office of Traffic Safety in the amount of \$46,233; authorize the Chief of Police to execute contract documents on behalf of the City; and approve budget adjustments needed to spend grant funds

Staff Recommendation: Approval (**Police Department: Jim Maher**)

CONSENT CALENDAR

8. **FUNDING INCREASE FOR 2009-2010 STREET MAINTENANCE PROJECT** – Request Council authorize the Director of Engineering Services to increase the 2009-2010 Street Maintenance Project budget by \$616,700

Staff Recommendation: Approval (**Engineering Services: Ed Domingue**)

9. **BID AWARD FOR THE TULIP STREET IMPROVEMENT PROJECT PHASE III** – Request Council authorize the Mayor and City Clerk to execute a Public Improvement Agreement with Southland Paving, Incorporated in the amount of \$1,698,913 for Phase III of the Tulip Street Improvement Project

Staff Recommendation: Approval (**Neighborhood Services: Rich Buquet**)

RESOLUTION NO. 2010-150

CONSENT - RESOLUTIONS AND ORDINANCES (COUNCIL/CDC/RRB)

The following Resolutions and Ordinances were heard and acted upon by the City Council/CDC/RRB at a previous City Council/Community Development Commission/Mobilehome Rent Review meeting. (The title of Ordinances listed on the Consent Calendar are deemed to have been read and further reading waived.)

10. **ZONE CHANGE AND MASTER AND PRECISE DEVELOPMENT PLAN (PHG 10-0020) ADDRESSED AS 2165 VILLAGE ROAD – FORMER FIRE STATION NO. 3 PROPERTY** – (Approved by Council on 10/27/10; vote: 5/0)

ORDINANCE NO. 2010-05 Second reading and adoption

CURRENT BUSINESS

11. **RECEIVE COUNCIL DIRECTION REGARDING RECOMMENDED CHANGES TO PARKING POLICY AND PARKING SPACES IN THE DOWNTOWN AREA** – The City Council Parking Subcommittee is requesting that the Council authorize interim changes for Downtown parking during the Holiday Season and other more additional permanent changes for parking along Grand Avenue and Valley Parkway

Staff Recommendation: Request Council authorize free parking in the Downtown area during the Holiday season, provide for permanent free parking on weekends, provide long term free parking on Valley Parkway and Second streets, and eliminate the mid-block red zones on Grand Avenue (**City Manager's Office: Charles Grimm**)

CURRENT BUSINESS

12. **ORAL REPORT: COUNCIL COMMENTS/REGIONAL ISSUES** – This item provides an opportunity for City Council representatives on regional boards, commissions, and committees, to report back to Council on matters being addressed by those respective boards, commissions, and committees. This item is for reports only, and there will be no discussion or action on the reports. Such discussion or action will be calendared for a future agenda

Staff Recommendation: None **(Mayor and City Councilmembers)**

BRIEFING (Staff)

FUTURE AGENDA

13. **FUTURE AGENDA ITEMS** - The purpose of this item is to identify issues presently known to staff or which members of the Council wish to place on an upcoming City Council agenda. Council comment on these future agenda items is limited by California Government Code Section 54954.2 to clarifying questions, brief announcements, or requests for factual information in connection with an item when it is discussed

Staff Recommendation: None **(City Clerk's Office: Marsha Whalen)**

ORAL COMMUNICATIONS

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COUNCIL/COMMISSION/ MEMBERS COMMENTS

CLOSED SESSION: (COUNCIL/CDC/RRB)

14. **CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION (Government Code §54956.9(a))**
a. Mardis v City of Escondido, et al, Case No. 37-2010-00057541-CU-PA-NC

ADJOURNMENT

UPCOMING MEETING SCHEDULE				
Date	Day	Time	Meeting Type	Location
November 17	Wednesday	4pm	Council Meeting	Council Chambers
November 24	NO MEETING	-	-	-
November 30	Tuesday	4pm	Special Meeting	Council Chambers
December 1	Wednesday	7pm	Installation Ceremonies	Council Chambers
December 8	Wednesday	4pm & 7pm	Council Meeting	Council Chambers

A banner with a black border containing a grayscale photograph of a building with a dome and an American flag on a tall pole in front. The text "Council Meeting Agenda" is overlaid in a bold, white, sans-serif font with a black outline.

Council Meeting Agenda

**NOVEMBER 10, 2010
7:00 p.m. Meeting**

NO ITEMS/NO MEETING!

TO ADDRESS THE COUNCIL

The public may address the City Council on any agenda item. Please complete a Speaker's form and give it to the City Clerk. Comments are generally limited to 3 minutes.

If you wish to speak concerning an item *not* on the agenda, you may do so under "Oral Communications." Please complete a Speaker's form as noted above.

Handouts for the City Council should be given to the City Clerk. To address the Council, use the podium in the center of the Chambers, STATE YOUR NAME FOR THE RECORD and speak directly into the microphone.

AGENDA, STAFF REPORTS AND BACK-UP MATERIALS ARE AVAILABLE:

- Online at <http://www.ci.escondido.ca.us/government/agendas/PublishedMeetings.htm>
- In the City Clerk's Office at City Hall
- In the Library (239 S. Kalmia) during regular business hours and
- Placed in the Council Chambers (See: City Clerk/Minutes Clerk) immediately before and during the Council meeting.

AVAILABILITY OF SUPPLEMENTAL MATERIALS AFTER AGENDA POSTING: Any supplemental writings or documents provided to the City Council regarding any item on this agenda will be made available for public inspection in the City Clerk's Office located at 201 N. Broadway during normal business hours, or in the Council Chambers while the meeting is in session.

LIVE BROADCAST

Council meetings are broadcast live on Cox Cable Channel 19 and can be viewed the following Sunday and Monday evenings at 6:00 p.m. on Cox Cable. The Council meetings are also available live via the Internet by accessing the City's website at www.escondido.org, and selecting: City Council/broadcasts of City Council Meetings/live video streaming.

Please turn off all cellular phones and pagers while the meeting is in session.

The City Council is scheduled to meet the first four Wednesdays of the month at 4:00 and 7:00 p.m. (*Verify schedule with City Clerk's Office*) Members of the Council also sit as the Community Development Commission and the Mobilehome Rent Review Board.

**CITY HALL HOURS OF OPERATION
Monday-Thursday 7:30 a.m. to 5:30 p.m.**



If you need special assistance to participate in this meeting, please contact our ADA Coordinator at 839-4641. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.

Listening devices are available for the hearing impaired – please see the City Clerk.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 4
Date: **November 10, 2010**

TO: Honorable Mayor and Members of the City Council

FROM: Sheryl Bennett, Director of Human Resources
Cindy Titgen, Benefits and Workers' Compensation Manager

SUBJECT: Approval of CalPERS Industrial Disability Retirement for George Lackerdas

RECOMMENDATION:

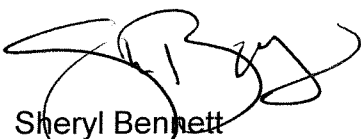
It is requested that Council adopt Resolution No. 2010-169 approving the California Public Employees' Retirement Systems (CalPERS) Industrial Disability Retirement for Police Officer, George Lackerdas.

BACKGROUND:

Mr. Lackerdas is a 56 year old male Police Officer. He has been employed by the City of Escondido for over 24 years. He service retired on July 9, 2010, pending Industrial Disability Retirement. The basis for Mr. Lackerdas' Industrial Disability Retirement application is confirmed by medical reports from Dr. Richard Friedman and his condition is cardiac in nature. Accordingly, Mr. Lackerdas is incapacitated within the meaning of the Public Employees' Retirement Law for the performance of his usual and customary duties in the position of Police Officer.

Under State Law, the City Council is required to adopt a Resolution determining that competent medical evidence supports the granting of an Industrial Disability Retirement. Based on medical evidence, staff recommends the City Council adopt Resolution No. 2010-169 approving the CalPERS Industrial Disability Retirement for George Lackerdas to be effective July 9, 2010.

Respectfully submitted,



Sheryl Bennett
Human Resources Director



Cindy Titgen
Benefits and Workers' Compensation Manager

RESOLUTION NO. 2010-169

4.

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
APPROVING THE CALPERS INDUSTRIAL
DISABILITY RETIREMENT FOR GEORGE
LACKERDAS

WHEREAS, the City of Escondido (hereinafter referred to as "Agency") is a contracting agency of the California Public Employees' Retirement System (CalPERS); and

WHEREAS, the California Public Employees' Retirement Law requires that a contracting agency determine whether an employee of such agency in employment in which he is classified as a local safety member is disabled for purposes of the Public Employees' Retirement Law and whether such disability is "industrial" within the meaning of such law; and

WHEREAS, an application for Industrial Disability Retirement of George Lackerdas employed by the Agency in the position of Police Officer has been filed with CalPERS; and

WHEREAS, the City of Escondido has reviewed the medical and other evidence relevant to such alleged disability.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, as follows:

1. That the above recitations are true.
2. That the City Council of the City of Escondido does find and determine that George Lackerdas is incapacitated within the meaning of the Public Employees' Retirement Law for performance of his usual duties in the position of Police Officer.

3. That the City Council of the City of Escondido does find and determine that such disability is a result of injury or disease arising out of and in the course of employment.

4. That neither George Lackerdas nor the Agency, has applied to the Workers' Compensation Appeals Board for a determination pursuant to Section 21166 whether such disability is industrial.

5. That there is not a possibility of third party liability.

6. That the service member did service retire on July 9, 2010, pending approval of Industrial Disability Retirement and no dispute exists with regards to the retirement date. Mr. Lackerdas' last day on pay status was July 8, 2010.

7. That advanced permanent disability payments will not be made.

8. That the City Council of the City of Escondido finds that the primary disability is cardiac.

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 5
Date: **November 10, 2010**

TO: Honorable Mayor and Members of the City Council
FROM: Edward N. Domingue, Director of Engineering Services
Bud Oliveira, Construction Project Manager
SUBJECT: Notice of Completion for Tract 855 Canyon Crest Development

RECOMMENDATION:

It is requested that Council approve and accept the public improvements and authorize staff to file a Notice of Completion for Tract 855 Canyon Crest Development.

FISCAL ANALYSIS:

No direct fiscal impact.

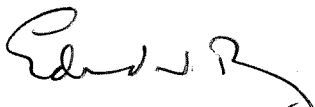
PREVIOUS ACTION:

The final map was recorded on November 10, 2005.

BACKGROUND:

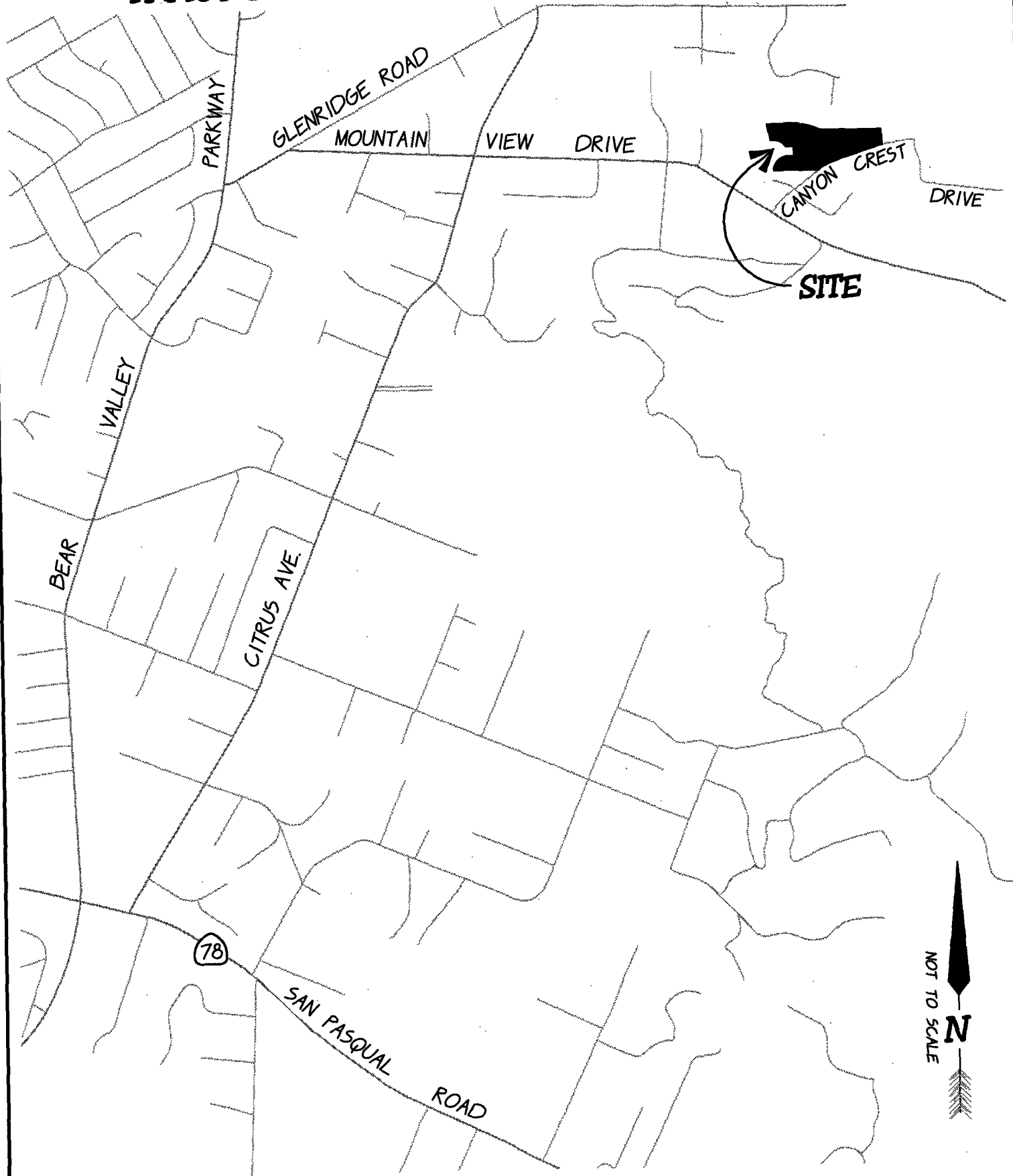
Tract 855 is an eighteen (18) lot single-family subdivision located at 2264 Canyon Crest Drive developed by Kennedy Homes. The public improvements associated with this project include water, sewer, storm drain, curb, gutter, sidewalk, streetlights, fire hydrants and additional signage.

Respectfully submitted,


Edward N. Domingue, P.E.
Director of Engineering Services


Bud Oliveira
Design & Construction Project Manager

TRACT 855 - CANYON CREST DEVELOPMENT



NOTICE OF COMPLETION
CITY COUNCIL MEETING 11-10-2010
ENGINEERING SERVICES





CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 6
Date: November 10, 2010

TO: Honorable Mayor and Members of the City Council

FROM: Jim Maher, Chief of Police

SUBJECT: FY 2011 Office of Traffic Safety California Seat Belt Compliance Campaign Grant

RECOMMENDATION:

It is requested that Council authorize the Escondido Police Department to accept a FY 2011 California Seat Belt Compliance Campaign Grant from the Office of Traffic Safety in the amount of \$3,788.16. Authorize the Chief of Police to execute contract documents on behalf of the City and approve budget adjustments needed to spend grant funds for overtime expenses.

FISCAL ANALYSIS:

This action will have no impact on the General Fund Budget. Grant funds will be used to pay overtime expenses for special seat belt enforcement activities.

PREVIOUS ACTION:

City Council approved a FY 2010 Office of Traffic Safety California Seat Belt Compliance Campaign Grant in the amount of \$21,690 on November 18, 2009.

BACKGROUND:

The California Office of Traffic Safety (OTS) has allocated grant funding for local law enforcement agencies to reimburse overtime costs for seat belt enforcement. Grant strategies will focus on public information and enforcement on persons who fail to use seat belts during the 2011 "Next Generation - Click It or Ticket" Campaign.

Your action today to accept grant funds will allow the Police Department to receive reimbursement for overtime hours spent on mobilization efforts targeting seat belt violations. Mobilization efforts are an effective way to educate drivers and promote traffic safety within the community.

Respectfully submitted,

Jim Maher
Chief of Police



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 7
Date: November 10, 2010

TO: Honorable Mayor and Members of the City Council
FROM: Jim Maher, Chief of Police
SUBJECT: FY 2011 California Office of Traffic Safety Sobriety Checkpoint Mini-grant

RECOMMENDATION:

It is requested that City Council authorize the Escondido Police Department to accept a FY 2011 Sobriety Checkpoint Mini-grant from the Office of Traffic Safety in the amount of \$46,233.75. Authorize the Chief of Police to execute contract documents on behalf of the City and approve budget adjustments needed to spend grant funds for overtime expenses.

FISCAL ANALYSIS:

This action will have no impact on the General Fund Budget. Grant funds will be used to pay overtime expenses for sobriety checkpoints.

PREVIOUS ACTION:

City Council approved a FY 2010 California Office of Traffic Safety Sobriety Checkpoint Mini-grant in the amount of \$36,818.90 on November 18, 2009.

BACKGROUND:

The California Office of Traffic Safety (OTS) has allocated grant funding for local law enforcement agencies to reimburse overtime costs for sobriety checkpoints during two mobilization periods (December 17, 2010 through January 2, 2011 and August 19, 2011 through September 5, 2011). The goal of the grant is to reduce the number of victims killed and injured in alcohol-related crashes.

Your action today to accept grant funds and authorize staff to submit grant documents will allow the Police Department to receive reimbursement for overtime hours that officers and supervisors spend on sobriety checkpoints.

Respectfully submitted,


Jim Maher
Police Chief



CITY OF ESCONDIDO
BUDGET ADJUSTMENT REQUEST

Date of Request: November 2, 2010
Department: Police
Division: Administration
Project/Budget Manager: Susan Cervenka/Barbara MarLett 4734
Name Extension
Council Date (if applicable): (attach copy of staff report)

For Finance Use Only
Log #
Fiscal Year
Budget Balances
General Fund Accts
Revenue
Interfund Transfers
Fund Balance

Table with 4 columns: Project/Account Description, Account Number, Amount of Increase, Amount of Decrease. Rows include Revenue (4128-451-new number, \$46,233.75) and Police Grants (451-new number, \$46,233.75).

Explanation of Request: Budget adjustments are needed to receive grant funds and establish a spending account for FY 2011 California Office of Traffic Safety Sobriety Checkpoint Mini-grant.

APPROVALS

Department Head: [Signature] 11-2-10
Finance: [Signature] 11/2/10
City Manager:
City Clerk:

Distribution (after approval): Original: Finance

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 8
Date: **November 10, 2010**

TO: Honorable Mayor and Members of the City Council
FROM: Edward N. Domingue, Director of Engineering Services
SUBJECT: Approval of Funding Increase for 2009-2010 Street Maintenance Project

RECOMMENDATION:

It is requested that Council authorize the Director of Engineering Services to increase the contract amount for the 2009-2010 Street Maintenance Project by \$616,680.

FISCAL ANALYSIS:

This action will approve a funding increase of up to \$616,680 for the 2009-2010 Street Maintenance Project. The increase will be up to 25 percent of the original contract price. There are sufficient funds in the Street Maintenance Project Account No. 103-627101 to support this action.

CORRELATION TO THE CITY COUNCIL ACTION PLAN:

This item relates to the Council's Action Plan regarding Infrastructure and Facilities Maintenance. The City Council desires to provide Escondido with safe and well maintained facilities to enhance commerce, tourism, recreation and social activities.

PREVIOUS ACTION:

On March 24, 2010, Council awarded the 2009-2010 Street Maintenance Project to the lowest bidder, George Weir Asphalt, Inc. The work included in the contract was street reconstruction, street repairs, street overlays and application of slurry seal to street surfaces. The award of this contract was for \$2,466,727.61.

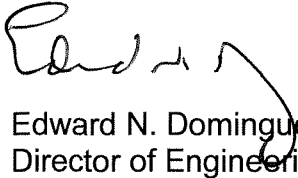
BACKGROUND:

The lowest bid received for the 2009-2010 Street Maintenance Project was \$2,466,727.61. The Engineers Estimate for this project was between four million and five million dollars. The Engineers Estimate was based on unit prices received in previous projects. The favorable bidding climate resulted in the low bid being well below the Engineer's Estimate. As a result of the low unit prices received in this bid and the onset of the rainy season, additional work in the amount of up to \$616,680

Approval of Funding Increase for 2009-2010 Street Maintenance Project
November 10, 2010
Page 2

should be added to this contract to optimize the added value of the low unit prices and effect repairs to as many areas possible in an effort to minimize maintenance activities over the winter.

Respectfully submitted,



Edward N. Domingue, P.E.
Director of Engineering Services



Bud Oliveira
Design & Construction Project Manager

CITY COUNCIL

For City Clerk's Use:

APPROVED **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 9
Date: November 10, 2010

TO: Honorable Mayor and Members of the City Council
FROM: Rich Buquet, Neighborhood Services Manager
SUBJECT: Bid Award for the Tulip Street Neighborhood Improvement Phase III Project

RECOMMENDATION:

It is requested that Council determine the apparent low bid by Southland Paving Inc. to be the lowest responsive and responsible bid and adopt Resolution No. 2010-150 authorizing the Mayor and the City Clerk to execute an agreement with Southland Paving Inc. in the amount of \$1,698,913.50 for the Tulip Street Neighborhood Improvements Phase III.

FISCAL ANALYSIS:

This project will be funded with CDBG allocations from FY 2008-09, FY 2009-10 and FY 2010-11.

PREVIOUS ACTION:

On March 24, 2010, Council approved the FY 2010-2011 One-Year Action Plan for CDBG which included \$851,975 for Phase III of the Tulip Street Improvement Project which will be used in combination with CDBG allocations approved for the Tulip Street Improvement Project in the FY 2009-10 and FY 2008-09 One-Year Action Plans for CDBG.

On September 1, 2010, Council approved an amendment the FY 2008-09 One-Year Action Plan to allocate ARRA funds remaining after the completion of the Elm to Hickory Streetlights project in the amount of \$222,523 to Phase III of the Tulip Street Improvement Project.

BACKGROUND:

The Tulip Street Neighborhood Improvement Project Phase III consists of comprehensive street improvements on Tulip Street from 5th Avenue to 3rd Avenue. Improvements will include new curbs, gutters, retaining walls, sidewalks, street lights, new street surfaces and a new median on Tulip Street from 5th to 3rd Avenues (the "Project"). The City of Escondido received four (4) sealed bids in response to its advertised request for bids for the Project.

Tulip Street Improvement Project Phase III Bid Award
November 10, 2010
Page 2

The Engineers estimate for the Project is \$2,000,000. Sealed bids were received on October 28, 2010 and opened by the City Clerk with the following results:

	Base Bid	Additive Bid	Total
1. Southland Paving Inc.	\$1,286,443.50	\$412,470.00	\$1,698,913.50
2. Dick Miller Inc.	\$1,555,152.50	\$530,786.00	\$2,085,938.50
3. Palm Engineering	\$1,717,690.00	\$603,838.00	\$2,321,528.00
4. Tri-Group Construction	\$2,144,820.00	\$1,088,160.00	\$3,232,980.00

City staff reviewed the Section 3 plans of the three lowest and responsive bidders and found that Southland Paving Inc. has the preferred Section 3 hiring plan. Staff recommends that the bid submitted by Southland Paving Inc. be considered the lowest responsive and responsible bid and the contract be awarded to Southland Paving, Inc. in the amount of \$1,698,913.50.

Respectfully submitted,



Rich Buquet
Neighborhood Services Manager

RESOLUTION NO. 2010-150

9.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE, ON BEHALF OF THE CITY, A PUBLIC IMPROVEMENT AGREEMENT WITH SOUTHLAND PAVING INC., FOR THE CONSTRUCTION OF THE TULIP STREET IMPROVEMENT PROJECT PHASE III

WHEREAS, the Escondido City Council authorized an invitation for bids for the Construction of Tulip Street Improvement Project Phase 3 ("Construction"); and

WHEREAS, the City of Escondido opened the sealed bids for the Construction on October 28, 2010; and

WHEREAS, the Community Services Director recommends awarding the bid to Southland Paving Inc. of Escondido, California; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve said bid for the Construction.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.
2. That the City Council accepts the recommendation of the Community Services Director and finds Southland Paving Inc. to be the lowest responsive and responsible bidder.
2. That the Mayor and the City Clerk are authorized to execute, on behalf of the City, a Public Improvement Agreement ("Agreement") with Southland Paving Inc. for the Construction. A copy of the Agreement is attached as Exhibit "A" to this resolution and is incorporated by this reference.

PUBLIC IMPROVEMENT AGREEMENT

This "Agreement", dated the _____ day of _____, 20____, in the County of SAN DIEGO, State of California, is by and between **THE CITY OF ESCONDIDO** (hereinafter referred to as "CITY"), and **SOUTHLAND PAVING INC.** (hereinafter referred to as "CONTRACTOR").

The CITY and the CONTRACTOR, for the consideration stated herein, agree as follows:

1. The complete contract includes all of the Project Documents described in the General Conditions, which are incorporated by reference. The Project Documents are complementary, and what is called for by any one shall be as binding as if called for by all.
2. CONTRACTOR shall perform, within the time set forth in Paragraph 4 of this Agreement, everything required and reasonably inferred to be performed, and shall provide and furnish all the labor, materials, necessary tools, expendable equipment, and all utility and transportation services as described in the complete contract and required for construction of

TULIP STREET IMPROVEMENTS, PHASE III

All of said work to be performed and materials to be furnished shall be completed in a good workmanlike manner, free from defects, in strict accordance with the plans, drawings, specifications and all provisions of the complete contract as hereinabove defined. The CONTRACTOR shall be liable to the CITY for any damages and resulting costs, including consultants' costs, arising as a result of a failure to fully comply with this obligation, and the CONTRACTOR shall not be excused with respect to any failure to so comply by any act or omission of the Architect, Engineer, Inspector, or representative of any of them, unless such act or omission actually prevents the CONTRACTOR from fully complying with the requirements of the Project Documents, and unless the CONTRACTOR protests at the time of such alleged prevention that the act or omission is preventing the CONTRACTOR from fully complying with the Project documents. Such protest shall not be effective unless reduced to writing and filed with the CITY within **three (3) working days** of the date of occurrence of the act or omission preventing the CONTRACTOR from fully complying with the Project documents.

3. CITY shall pay to the CONTRACTOR, as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the Project documents, the sum of One Million Six Hundred and Ninety Eight Thousand Nine Hundred Thirteen Dollars and Fifty Cents (\$1,698,913.50).
4. The work shall be commenced on or before the twenty-first (21st) day after receiving the CITY'S Notice to Proceed and shall be completed within **One Hundred (100) working or calendar days** from the date specified in the Notice to Proceed.
5. Time is of the essence. If the work is not completed in accordance with Paragraph 4 above, it is understood that the CITY will suffer damage. It being impractical and infeasible to determine the amount of actual damage(s), in accordance with Government Code Section 53069.85, it is agreed that CONTRACTOR shall pay to CITY as fixed and liquidated damages, and not as a penalty, the sum(s) indicated in the LIQUIDATED DAMAGES SCHEDULE below for each calendar day of

delay until work is completed and accepted. This amount shall be deducted from any payments due to or to become due to CONTRACTOR. CONTRACTOR and CONTRACTOR'S surety shall be liable for the amount thereof. Time extensions may be granted by the CITY as provided in the General Conditions.

Liquidated damages schedule:

If the overall project is delayed **one (1) calendar day or more**, the rate shall be \$250/day.

Acknowledged: _____
Initials of Principal

- 6. In the event CONTRACTOR, for a period of **ten (10) calendar days** after receipt of written demand from CITY to do so, fails to furnish tools, equipment, or labor in the necessary quantity or quality, or to prosecute said work and all parts thereof in a diligent and workmanlike manner, or after commencing to do so within said **ten (10) calendar days**, fails to continue to do so, then the CITY may exclude the CONTRACTOR from the premises, or any portion thereof, and take possession of said premises or any portion thereof, together with all material and equipment thereon, and may complete the work contemplated by this Agreement or any portion of said work, either by furnishing the tools, equipment, labor or material necessary, or by letting the unfinished portion of said work, or the portion taken over by the CITY to another contractor, or demanding the surety hire another contractor, or by any combination of such methods. In any event, the procuring of the completion of said work, or the portion thereof taken over by the CITY, shall be a charge against the CONTRACTOR, and may be deducted from any money due or to become due to CONTRACTOR from the CITY, or the CONTRACTOR shall pay the CITY the amount of said charge, or the portion thereof unsatisfied. The sureties provided for under this Agreement shall become liable for payment should CONTRACTOR fail to pay in full any said cost incurred by the CITY. The permissible charges for any such procurement of the completion of said work should include actual costs and fees incurred to third party individuals and entities (including, but not limited to consultants, attorneys, inspectors, and designers) and actual costs incurred by CITY for the increased dedication of time of CITY employees to the Project.

- 7. To the fullest extent permitted by law, the CONTRACTOR agrees to and does hereby agree to fully defend, indemnify and hold the CITY, its governing board, officers, agents, Project design team members (architect and consulting engineers), consultants, attorneys, and employees harmless of and from each and every claim, assertion, action, cause of action, arbitration, suit, proceedings, or demand made, and every liability, loss, judgment, award, damage, or expense, of any nature whatsoever (including attorneys' fees, consultant costs), which may be incurred by reason of:
 - (a) Asserted and/or actual liability arises from claims for and/or damages resulting from damages for:
 - (1) Death or bodily injury to persons.
 - (2) Injury to, loss or theft of tangible and/or intangible property/ e.g. economic loss.
 - (3) Any other loss, damage or expense arising under either (1) or (2) above, sustained by the CONTRACTOR upon or in connection with the work called for in this Project, except for liability resulting from the sole active negligence, or willful misconduct of the CITY.

- (b) Any injury to or death of any person(s) or damage, loss or theft of any property caused by any act, neglect, default or omission of the CONTRACTOR, or any person, firm, or corporation employed by the CONTRACTOR, either directly or by independent contract, arising out of, or in any way connected with the work covered by this Agreement, whether said injury or damage occurs on or off City property.
- (c) Any and all liabilities, claims, actions, causes of action, proceedings, suits, administrative proceedings, damages, fines, penalties, judgments, orders, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements, arising out of any violation, or claim of violation of the San Diego Municipal Storm Water Permit (Order No. 2001-01), and updates or renewals, of the California Regional Water Quality Control Board Region 9, San Diego, which the CITY might suffer, incur, or become subject by reason of or occurring as a result of or allegedly caused by the construction, reconstruction, maintenance, and/or repair of the work under this Agreement.

The CONTRACTOR, at CONTRACTOR's own expense, cost, and risk shall defend any and all actions, suit, or other proceedings that may be brought or instituted against the CITY, its governing board, officers, agents or employees, on any such claim, demand or liability, and shall pay or satisfy any judgment that may be rendered against the CITY, its governing board, officers, agents or employees in any action, suit or other proceedings as a result thereof.

- 8. CONTRACTOR shall take out, prior to commencing the work, and maintain, during the life of this contract, and shall require all subcontractors, if any, of every tier, to take out and maintain:
 - (a) General Liability and Property Damage Insurance as defined in the General Conditions in the amount with a combined single limit of not less that **\$3,000,000 per occurrence**.
 - (b) Course of Construction / Builder's Risk Insurance. See Article 5.2 of General Conditions.
 - (c) Insurance Covering Special Hazards: The following special hazards shall be covered by rider or riders to the above-mentioned public liability insurance or property damage insurance policy or policies of insurance, or by special policies of insurance in amounts as follows:
 - (1) Automotive and truck where operated in amounts as above
 - (2) Material hoist where used in amounts as above
 - (d) Workers' Compensation Insurance.
 - (e) Each insurance policy required above must be acceptable to the City Attorney, as follows:
 - (1) Each policy must name the CITY specifically as an additional insured under the policy on a separate endorsement page, with the exception of the workers' compensation and the Errors and Omissions policies.
 - (2) Each policy must provide for written notice within no more than thirty (30) days if cancellation or termination of the policy occurs. Insurance coverage must be provided by an A.M. Best's A-rated, class V carrier or better, admitted in California, or if non-admitted, a company that is not on the Department of Insurance list of unacceptable carriers.

- (3) All non-admitted carriers will be required to provide a service of suit endorsement in addition to the additional insured endorsement.
 - (f) In executing this Agreement, CONTRACTOR agrees to have completed insurance documents on file with the CITY within 14 days after the date of execution. Failure to comply with insurance requirements under this Agreement will be a material breach of this Agreement, resulting in immediate termination at CITY's option.
9. This Agreement is subject to California Public Contract Code Section 22300, which permits the substitution of securities for any monies withheld by the City under this Agreement, and permits the CONTRACTOR to have all payments of earned retentions by the City paid to an escrow agent at the expense of the CONTRACTOR.
10. Each and every provision of law and clause required by law to be inserted in this Agreement or its attachments shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either party the Agreement shall forthwith be physically amended to make such insertion or correction, without further changes to the remainder of the Agreement.
11. The complete contract as set forth in Paragraph 1 of this Agreement constitutes the entire Agreement of the parties. No other agreements, oral or written, pertaining to the work to be performed, exists between the parties. This Agreement can be modified only by an amendment in writing, signed by both parties and pursuant to action of the Escondido City Council.
12. CONTRACTOR shall comply with those provisions of the Labor Code requiring payment of prevailing wages, keeping of certified payroll records, overtime pay, employment of apprentices, and workers' compensation coverage, as further set forth in the General Conditions, and shall file the required workers' compensation certificate before commencing work.
13. The terms "Project Documents" and/or "Contract Documents" where used, shall refer to those documents included in the definition set forth in the General Conditions made a part hereof.

IN WITNESS WHEREOF, this Agreement has been executed on behalf of CITY by its officers thereunto authorized and by CONTRACTOR, the date and year first above written.

CITY OF ESCONDIDO
a municipal corporation
201 North Broadway
Escondido, CA 92025

By: _____
Marsha Whalen, City Clerk

By: _____
Lori Holt Pfeiler, Mayor

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY
JEFFREY R. EPP, City Attorney

By: _____

CONTRACTOR

By: _____
Signature

By: _____
Signature*

Print Name

Print Name

Title

Title

(Second signature required only for corporation)

By: _____
Signature**

Print Name

Title

(CORPORATE SEAL OF CONTRACTOR, if
corporation)

Contractor's License No.

Tax ID/Social Security No.

*If CONTRACTOR is a corporation, the first signature must be by one of the following officers of the corporation: Chairman of the Board, President, or any Vice President.

**If CONTRACTOR is a corporation, the second signature must be by a different person from the first signature and must be by one of the following officers of the corporation: Secretary, any Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer.

ORDINANCE NO. 2010-05

10,

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, REZONING AN APPROXIMATELY 0.35-ACRE PARCEL LOCATED ON THE WESTERN SIDE OF VILLAGE ROAD, SOUTH OF COUNTRY CLUB LANE, MORE SPECIFICALLY DESCRIBED BY THIS ORDINANCE FROM PLANNED DEVELOPMENT-RESIDENTIAL TO PLANNED DEVELOPMENT-COMMERCIAL

Planning Case No. PHG 10-0020

The City Council of the City of Escondido, California, DOES HEREBY ORDAIN as follows:

SECTION 1. That proper notices of a public hearing have been given and a public hearing has been held before the City Council on this issue.

SECTION 2. That the City Council has reviewed and considered the Negative Declaration issued for this project and has determined no significant impacts will result from approving this Zone Change.

SECTION 3. That upon consideration of the Factors to be Considered attached as Exhibit "A" and incorporated by this reference, the staff report, Planning Commission recommendation, and all public testimony presented at the hearing held on this project, this City Council finds this Zone Change from Planned Development-Residential ("PD-R") to Planned Development-Commercial ("PD-C") is consistent with the General Plan and all applicable specific plans of the City of Escondido.

A COMPLETE COPY OF THIS ORDINANCE IS ON FILE IN THE OFFICE OF THE CITY CLERK FOR YOUR REVIEW.

CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: //
Date: November 10, 2010

TO: Honorable Mayor and Members of the City Council
FROM: Charles Grimm, Assistant City Manager
SUBJECT: Council Parking Subcommittee Recommendations

RECOMMENDATION:

The Parking Subcommittee is recommending that the City Council implement the following recommendations: 1) Establish free unlimited parking in the Downtown area during the holidays; 2) On a permanent basis ensure that weekend parking in the Downtown would be free with no time limits; 3) On a permanent basis provide that parking on Valley and Second Streets in the Downtown area is free with no time limits; and 4) that all mid-block red zones along Grand Avenue be removed.

FISCAL ANALYSIS:

Revenues from normal enforcement for this period would be lost but would likely be neutralized by the lack of need for enforcement personnel during the same time.

BACKGROUND:

In 2009 Council authorized several changes to the management and costs of Downtown parking permits. The number of permits that could be issued was raised to coincide with the total amount of lot spaces in the Downtown area. In addition, the cost of the permits also was raised. Due to the financial hardships currently being experienced by many Downtown merchants, the DBA requested to meet with the Parking Subcommittee (Abed and Diaz). A meeting was held by the Subcommittee on October 26, 2010, and was attended by the DBA and a number of Downtown merchants.

After lengthy discussion on a number of issues, the Downtown Parking Subcommittee requested the following recommendations be presented to the City Council:

Free Downtown parking for the Holidays: The Subcommittee is recommending free parking in the Downtown area from November 25, 2010, through January 2, 2011. Parking signs would be bagged for this period. In conjunction with covering the signs, the City Manager would withhold parking enforcement during this period. The DBA has offered to be responsible for covering the signs during this period. Since a number of businesses are going through severe hardships the Subcommittee felt that easing our regulations during the peak of their business season could be helpful to Downtown merchants.

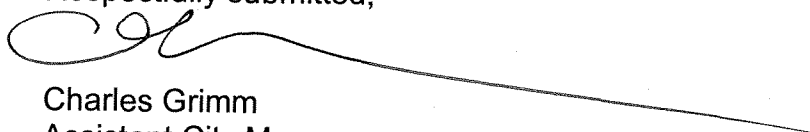
Weekend Parking: The Parking Subcommittee is also recommending that Council provide no cost parking with no time limits on weekends on a permanent basis. Minor costs would occur from the need to modify affected parking signs. Enforcement would not be needed in the affected lots on weekends. The Subcommittee felt this could help stimulate weekend business.

Second Street and Valley Parkway: In addition, the Subcommittee is also requesting that the City Council provide no cost and no time limit parking on Valley Parkway and Second Street in the Downtown area. This would allow merchants' employees to park off of Grand and help businesses that have clients in their shops for more than two or three hours. Signs would need to be changed to reflect the new policy.

Longer Term Issues: In discussing longer term parking issues the Downtown Parking Subcommittee is also recommending that the City Council direct staff to analyze the use of pay machines for downtown parking lots where patrons could pay an amount consistent with the length of time they want to park in the lot.

In addition, the Subcommittee would like Council to initiate a general review of all parking standards in the Downtown area, have staff work with the DBA to provide better signing for parking lots, take another look at the possibility of utilizing diagonal parking on Grand Avenue, and have Council continue to look at opportunities for structured parking. Staff would recommend that these items be discussed at the Council Action Plan workshop in February.

Respectfully submitted,



Charles Grimm
Assistant City Manager



ITEM NO.: 12

AGENDA: 11-10-10

~~()~~ There is no material for this agenda item.

THE FOLLOWING ITEM(S) WILL BE DISTRIBUTED WHEN AVAILABLE:

- () Staff Report
- () Resolution No.: _____
- () Ordinance No.: _____
- () Exhibits/Attachments: _____

DUE TO THE SIZE OF THIS AGENDA ITEM:

- () **COUNCIL MEMBERS:** A copy is in the Council Reading File
- () **Staff and others:** A copy is available in the City Clerks Office for viewing



FUTURE CITY COUNCIL AGENDA ITEMS

November 4, 2010

AGENDA ITEMS AND COUNCIL MEETING DATES ARE SUBJECT TO CHANGE. CHECK WITH THE CITY CLERK'S OFFICE AT 839-4617

Green Sheet Due by Noon on Monday, 11/1/10
 Staff Reports/Resos due by Noon on MONDAY 11/8/10

NOVEMBER 17, 2010	
4:00 p.m.	
CONSENT CALENDAR	
1	<p>Street Name Change for Escondido Tract 947 (PHG 10-0028), Hamilton Lane, between Bernardo Avenue and Acker Way (B. Redlitz).</p> <p><i>The subject 7-lot subdivision map was recorded with the new street name of Amir Place. All of the lots still are under one ownership and the homes have not yet been constructed. The new property owner/developer has requested the street name change. Council approval is required to change a recorded street name, from Amir Place to Hamilton Place.</i></p>
2	<p>Mills Act Request (Case HP 10-0002) (B. Redlitz)</p> <p><i>Local Register listed historic California Bungalow located in the Old Escondido Neighborhood Historic District. The single-story house was constructed by Wilda King in 1919.</i></p>
3	<p>Business Incubator Lease Agreement, 700 W. Grand Avenue (C. Grimm)</p> <p><i>The San Diego North Economic Development Council is interested in leasing the old Police Station for the purpose of developing a business incubator in Escondido.</i></p>
4	<p>Microsoft Licensing Enterprise Agreement (M. Becker)</p> <p><i>Purchase Microsoft Software Assurance (SA) for Microsoft desktop, server software, and Exchange licensing and services via a Microsoft Licensing Enterprise Agreement through CompuCom Inc. The City currently maintains Microsoft SA with Dell Incorporated. Microsoft SA provides software support, updates, and services. The cost is \$204,456 a year for three years. The first year's payment is available in the Information Systems 10/11 Operating Budget.</i></p>

NOVEMBER 17, 2010 (cont.)	
5	<p>Amendment to Contract with EDI for the Annual CPI Adjustment to Solid Waste & Recycling Rates for Commercial and Residential Collection (J. Van Leeuwen/R. O'Donnell)</p> <p>Escondido Disposal Solid Waste Rates and Fees are reviewed and adjusted annually, based on a CPI formula, as allowed in the City's contract with Escondido Disposal, Inc. (EDI). Council approved a similar adjustment to residential rates on 4/1/09, and commercial rates on 12/17/08. Last year the annual rate review was conducted but no adjustments were needed.</p>
6	<p>Third Quarter 2010 Treasurer's Report (K. Hugins)</p> <p><i>According to the City's Investment Policy, the City Treasurer is required to submit an investment report to the City Council for review on a quarterly basis. The report will include the type of investment, issuer, date of maturity, par, and dollar amount invested and market value for each security held by the City.</i></p>
7	<p>FY 2010-11 State of California Citizens' Options for Public Safety (COPS) Program Grant (J. Maher)</p> <p><i>COPS funds may be used to support front-line law enforcement services, which include anti-gang, crime prevention and juvenile justice programs. They may not supplant existing funding and they must supplement law enforcement services. The Escondido Police Department proposes to use these funds for part-time employee salaries that will enhance front-line law enforcement and benefit public safety programs within the community.</i></p>
8	<p>Asset Forfeiture Fund Budget Adjustment (J. Maher)</p> <p><i>The U.S. Department of Justice (DOJ) gives the City a percentage of assets which have been confiscated by local officers during DOJ seizure efforts. Funds are deposited into the City's Asset Forfeiture Account, and may be used to purchase equipment or services for law enforcement efforts. The Police Department proposes to use these funds to purchase equipment including: computers; cameras; flashlights; GPS devices; software; a sex registrant tracking program; and a truck and equipment for commercial vehicle enforcement.</i></p>

NOVEMBER 17, 2010 (cont.)	
9	<p>Fifth Amendment to Consultant Agreement for Bear/East Valley Parkway Project for Environmental Services (Helix) (E. Domingue)</p> <p><i>In 2004, as part of the Bear/East Valley Pkwy. project, the Federal Highway Administration (FHWA) approved an environmental document for the complete project. Design of the last phase of this work is now beginning and requires review and potentially some updates to the environmental documents previously prepared and processed to approval by Helix.</i></p>
PUBLIC HEARINGS:	
10	<p>Greencrest MHP Hearing (M. Henderson)</p> <p>The application meets all the eligibility criteria for submittal of a short-form rent increase application. The amount requested covers a 12 month period of consideration from June 30 2009 to June 30, 2010. Seventy five per cent of the change in the Consumer Price Index for the 12 month period is 1.045%. The Owner is requesting an increase for 72 of the 129 spaces in the Park. The average space rent for the 72 spaces subject to a rent increase is \$391.16 and the average increase is approximately \$4.09 per space per month.</p>
11	<p>Local Register and Mills Act Contract Request (Cases HP 10-0001 and HP 10-0004) (B. Redlitz)</p> <p><i>The large two-story Victorian style house is believed to have been designed and built by architect J.A. Pomeroy in 1895. There is also a small accompanying garage. The property is within the Old Escondido Historic District and meets three of seven criteria for Local Register Listing. (A minimum of two are required.)</i></p>
CURRENT BUSINESS	
	<p>Purchase of Building and Property at 2120 Harmony Grove Road (J. Van Leeuwen)</p> <p><i>Purchase of this property will allow for the relocation of the Community Services Divisions currently housed at the Public Works Yard at 475 N. Spruce Street</i></p>
12	<p>Future Agenda Items (M. Whalen)</p>
7:00 p.m. NO ITEMS CURRENTLY SCHEDULED	

NOVEMBER 24, 2010 – NO MEETING (Thanksgiving)