

CITY OF SAN DIEGO COUNCIL DOCKET



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**Andrea Tevlin
Independent
Budget Analyst**

**Jan Goldsmith
City Attorney**

**Liz Maland
City Clerk**

Council Chambers, 12th Floor, City Administration Building

Monday, April 6, 2015

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
MONDAY, APRIL 6, 2015, AT 2:00 PM
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

This information will be made available in alternative formats upon request, as required by the Americans with Disabilities Act (ADA), by contacting the City Clerk at (619) 533-4000 or <mailto:cityclerk@sandiego.gov>. Requests for disability-related modifications or accommodations required to facilitate meeting participation, including requests for auxiliary aids, services or interpreters, require different lead times. Please keep this in mind and provide as much advance notice as possible in order to ensure availability. Assistive Listening Devices (ALDs) are available in Council Chambers upon request.

Pursuant to California Senate Bill 343 (Section 54957.5(b) of the Brown Act), late-arriving documents related to City Council meeting agenda items which are distributed to the legislative body prior to and during the Council meeting are available for public review in the Office of the City Clerk on the second floor of the City Administration Building, 202 C Street, San Diego, CA 92101. This relates to those documents received after the agenda is publicly noticed and during the 72 hours prior to the start of the meeting. Please note: Approximately one hour prior to the start of the Council Meeting, the documents will be available just outside Council Chambers in the lobby of the 12th floor of the City Administration Building in a binder labeled “SB 343.” Late-arriving materials received during the City Council meeting are available for review by making a verbal request of City Clerk staff located in Council Chambers.

ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

MAYOR, COUNCIL, INDEPENDENT BUDGET ANALYST, CITY ATTORNEY, CITY CLERK COMMENT

UPDATES ON PENDING LEGISLATION (MAYOR'S OFFICE)

REQUESTS FOR CONTINUANCE

The Council will consider requests for continuance based on when the item was noticed to be heard.

**ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
ORDINANCES TO BE INTRODUCED:**

ITEM-200: Salary Ordinance for Fiscal Year 2016.

ITEM DESCRIPTION:

This action is to approve the Annual Salary Ordinance for Fiscal Year 2016, per San Diego Charter Section 290. The Salary Ordinance establishes salaries of all Officers and Employees of the City of San Diego for Fiscal Year 2016, in accordance with San Diego Charter Sections 11.1, 70, 130, and 290.

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2015-81 Cor. Copy) (Rev. 4/6/15)

Introduction of an Ordinance establishing a Schedule of Compensation for Officers and Employees of the City of San Diego for the Fiscal Year 2016.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

Approval of the Salary Ordinance is required under the City's Charter as part of the annual budget process.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

October 1, 2013, Council approval of Memorandum of Understanding (MOUs) with each Recognized Employee Organization:

California Teamsters, Local 911 by San Diego Resolution R-308479 (Oct. 15, 2013).

Deputy City Attorneys Association by San Diego Resolution R-308477 (Oct. 15, 2013).

Local 127, American Federation of State, County, and Municipal Employees, AFL-CIO by San Diego Resolution R-308480 (Oct. 15, 2013).

San Diego City Firefighters, International Association of Firefighters, Local 145 by San Diego Resolution R-308478 (Oct. 15, 2013).

San Diego Municipal Employees' Association by San Diego Resolution R-308481 (Oct. 15, 2013).

San Diego Police Officers Association by San Diego Resolution R-308476 (Oct. 15, 2013).

von Kalinowski/Villa

Primary Contact\Phone: Joy Freeman\619-236-5599

Secondary Contact\Phone: Judy von Kalinowski\619-533-6413

City Attorney Contact: Dawson, Joan F.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

RESOLUTIONS:

ITEM-201: Authorize Amended and Restated Percentage Lease with Symphony Asset Pool XVI, LLC, and Lease Suspension and Termination Agreement with San Diego Coaster Company. (Mission Beach Community Area. District 2.)

ITEM DESCRIPTION:

This action is to request City Council authorization for the Mayor, or his designee, to enter into an Amended and Restated Lease Agreement with Symphony Asset Pool XVI, LLC, for the property known as Belmont Park. This action also requests authorization of the Lease Suspension and Termination Agreement with San Diego Coaster Company, for the property known as the Mission Beach rollercoaster.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2015-28 Cor. Copy 3)

Authorizing the Mayor, or his designee, to execute that certain Amended and Restated City of San Diego Percentage Lease by and between the City of San Diego and Symphony Asset Pool XVI, LLC, for the lease and operation of Belmont Park, and potentially the Roller Coaster;

Declaring that this resolution shall take effect and be in force only upon the final passage of Resolution R-_____, approving the Lease Suspension and Termination Agreement between the City and San Diego Coaster Company, a California Corporation, on file as Document No. RR-_____, but in no event earlier than the date of final passage of this resolution.

Subitem-B: (R-2015-362 Cor. Copy)

Authorizing and directing the Mayor, or his designee, to execute that certain Lease Suspension and Termination Agreement, as more fully set forth in Document No. RR-_____;

Declaring that this resolution shall take effect and be in force only upon the final passage of Resolution R-_____, approving the Amended and Restated City of San Diego Percentage Lease between the City and Symphony Asset Pool XVI, LLC, a Delaware Limited Liability Company, on file as Document No. RR-_____, but in no event earlier than the date of final passage of this resolution.

Subitem-C: (R-2015-123 Cor. Copy 2)

Declaring that the Council of the City of San Diego, using its independent judgment, has considered the written record and public comment for the requested authorization, and determining that the Project is categorically exempt from California Environment Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 and that an exception to the exemption as set forth in CEQA Guidelines Section 15300.2 does not apply.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

If the proposed lease is approved, at least \$415,000 of rent will be deposited into General Fund 100000 annually. In addition, the City will continue to deposit \$70,000 annually into a special fund to be used for amelioration of traffic problems in the Mission Beach Community and for enhancing community landscaping.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This item was heard in Closed Session on July 23, 2013, at the City Council meeting on September 22, 2014, as described above and in Closed Session on November 10, 2014.

Thompson/Villa

Primary Contact\Phone: Cybele Thompson\619-236-6145

Secondary Contact\Phone: Vladimir Balotsky\619-235-5248

City Attorney Contact: Mendoza, Hilda R.

ITEM-202: Approval of Transfer of Unencumbered Housing Funds as Required by California Department of Finance. (Districts 1, 2, 3, 4, 5, 6, 7, 8, and 9.)

ITEM DESCRIPTION:

Transfer of unencumbered housing funds to the Successor Agency, as required by the California Department of Finance.

STAFF'S RECOMMENDATION

Adopt the following resolutions:

Subitem-A: (R-2015-487)

Authorizing and directing the City Comptroller, on behalf of the City as housing successor to the Former RDA, to transfer unencumbered housing funds from Fund No. 200706 in the estimated range of \$12.25 million to \$12.61 million to the Successor Agency, as required by the Department of Finance (DOF).

Subitem-B: (R-2015-488)

This item is being presented to the Council in its capacity as the board of the local redevelopment successor agency, officially known as "the City of San Diego, solely in its capacity as the designated successor agency of the Redevelopment Agency of the City of San Diego, a former public body, corporate and politic" (Successor Agency).

Authorizing and directing the City Comptroller, on the Successor Agency's behalf, to accept the transfer of unencumbered housing funds in the estimated range of \$12.25 million to \$12.61 million from the City as housing successor to the Former RDA, as required by the DOF;

Authorizing and directing the City Comptroller, on the Successor Agency's behalf, to cause the expenditure of such unencumbered housing funds for approved enforceable obligation line items during the Recognized Obligation Payment Schedule (ROPS) 7 time period and future ROPS time periods, as required by the DOF.

STAFF SUPPORTING INFORMATION:**FISCAL CONSIDERATIONS:**

The Successor Agency has exhausted its administrative remedies through the meet-and-confer process on Recognized Obligation Payment Schedule (ROPS) 7 to contest the Department of Finance (DOF's) reclassification decision affecting the unencumbered housing funds. The City and the Successor Agency do not plan to initiate a lawsuit to challenge the DOF's decision. Therefore, the City and the Successor Agency must comply with the DOF's decision, and the City must transfer the unencumbered housing funds to the Successor Agency so that the Successor Agency will possess sufficient funds to pay certain bond-related enforceable obligations in accordance with the DOF's reclassification demand in the final determination letter for ROPS 7. Unless the Successor Agency obtains these funds from the City as housing successor, the Successor Agency will experience a significant funding shortfall in making all payments owed toward enforceable obligations during the ROPS 7 time period, which ends June 30, 2015. In that event, either the City's General Fund would be forced to absorb the funding shortfall or the Successor Agency would default on existing enforceable obligations (which, in turn, would likely expose the City's General Fund to financial risk).

As mentioned above, the DOF's reclassification decision in ROPS 7 effectively increased the Redevelopment Property Tax Trust Fund (RPTTF) distribution in January 2015, to the local taxing entities by \$11.9 million. The City, as one of the local taxing entities, received its pro rata share of roughly 17% of the \$11.9 million figure, or approximately \$2 million.

In its final determination letter, the DOF reduced the reclassification amount from \$16,665,359 to \$11,905,560 without addressing any of the Successor Agency's arguments. Successor Agency staff sent a follow-up email to the DOF on December 24, 2014, seeking clarification on how the DOF arrived at the figure of \$11,905,560. In response, the DOF issued a letter dated January 20, 2015. See Attachment C. This letter acknowledged that the figure of \$11,905,560 includes a substantial amount of housing funds, but took the position that those funds are not presently encumbered for any approved enforceable obligation and must be reclassified for expenditure on approved enforceable obligations pursuant to California Health and Safety Code (HSC) Sections 34177(d) and 34177(l)(1)(E). In late February 2015, the DOF's analyst stated that the entire figure of \$11,905,560 constitutes unencumbered housing funds.

Approximately \$11.4 million, or nearly all, of the housing funds in question pertain to a duplicative reserve for housing bond debt that the DOF had initially approved as restricted funds in the context of the due diligence review of housing assets and line item 479 in a prior ROPS, but later rejected as an enforceable obligation on the ROPS. See Attachment F for an excerpt from the due diligence review spreadsheet; the duplicative bond debt reserve is shown under Code Number 797 on the final page of this spreadsheet. If these housing funds had not been

shown as restricted funds during the due diligence review of housing assets completed in 2013, the Successor Agency would not have been permitted to transfer the funds to the City as housing successor, but instead would have been forced to transfer them to the County Auditor for pro rata distribution to the local taxing entities in mid-2013 as part of the Successor Agency's lump-sum payment of unencumbered housing funds. The housing bond reserve funds are not needed (i.e., they are duplicative) because the bond trustee already holds the required reserve amount and the DOF has consistently approved the Successor Agency's payment of the actual debt service for the pertinent housing bonds on each ROPS. Therefore, the reclassification of these housing funds for use in paying bond-related enforceable obligations in ROPS 7 will not result in any default on existing bond obligations, including any minimum reserve thresholds.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

Phillips/Graham

Primary Contact\Phone: Wanda Nations\619-533-7109

City Attorney Contact: Will, Brant C./Reisch, Kevin

NON-AGENDA PUBLIC COMMENT

This portion of the agenda provides an opportunity for members of the public to address the Council on items of interest within the jurisdiction of the Council. (Comments relating to items on today's docket are to be taken at the time the item is heard.)

Per Section 22.0101, Rule 2.6.2, of the San Diego Municipal Code, comments are limited to two minutes per speaker. Speakers may not allocate their time to other speakers. If there are eight (8) or more speakers on a single issue, the maximum time allotted for that issue will be sixteen (16) minutes. Non-Agenda Comment is taken toward the end of the Monday afternoon Council session.

CLOSED SESSION NOTICES, DISCLOSURE, AND PUBLIC COMMENT

In accordance with the San Diego City Council Permanent Rule for Noticing and Conduct of Closed Session Meeting, adopted on February 28, 2005, this portion of the agenda is reserved for City Attorney comment, public comment, and City Council discussion of the content of the Closed Session Agenda. Public testimony on Closed Session items is taken in Open Session on Mondays, except when there is no Monday meeting. Public testimony on Closed Session items is always taken prior to the actual Closed Session. Closed Session may take place any time after public testimony, but is typically held on Tuesdays at 9:00 a.m. The Closed Session Agenda is separately available in the Office of the City Clerk and also posted at the same locations as the Open Session Agenda, including the City internet address.

NOTE: Members of the public wishing to address the City Council on any item on the Closed Session Agenda should reference the Closed Session item number from the Closed Session Docket on the speaker slip. Speakers may speak "in favor" or "in opposition" to the subject.

Information Item - No Action Required - The City Council shall:

1) Consider any oral report from the City Attorney or City negotiators; 2) Accept testimony from any member of the public wishing to address the City Council on any item appearing on the Closed Session Agenda; 3) Allow for questions and discussion by Council Members, limited to the facts as disclosed by the City Attorney or City negotiators and the basis or justification for consideration of the matter in Closed Session; 4) Refer matters discussed to Closed Session.

PUBLIC NOTICES:

Items are listed under Public Notice as a matter of public record only. These items do not require Council action and there is no public testimony.

ITEM-250: **Notice** of Pending Final Map Approval - "4516 Idaho Street."

Notice is hereby given that the City Engineer has reviewed and will approve on the date of this City Council meeting that certain final map entitled "4516 Idaho Street Final Map" with Tentative Map approved by Planning Commission Resolution No. 4077-PC; located at 4516 Idaho Street between Madison Avenue and Monroe Avenue in Mid-City Communities Planed District within the Greater North Park Community plan area, in Council District No. 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 PM, 10 calendar days from the date of this City Council meeting stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the map approval findings or need additional information about the map or your appeal rights, please feel free to contact Greg Hopkins at (619) 446-5291.

ITEM-251: **Notice** of Pending Final Map Approval - "East Clusters Enclave."

Notice is hereby given that the City Engineer has reviewed and will approve on the date of this City Council meeting that certain final map entitled "East Clusters Enclave" (V.T.M. No. 1197087, PTS No.339873) located northwest of Carmel Valley Road on Chesfield Court, in the RS-1-8 zone, of the Black Mountain Ranch Subarea Plan, Council District 5, the property is legally described as lots 27 through 31, inclusive, 33 through 4, inclusive, and letter lot "O" of Black Mountain Ranch East Clusters Unit No. 2, according to Map thereof No. 15924, filed June 26, 2013; a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 PM, 10 calendar days from the date of this City Council meeting stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the map approval findings or need additional information about the map or your appeal rights, please feel free to contact Gregory P. Hopkins (619) 446-5291.

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT