

**Office of
The City Attorney
City of San Diego**

MEMORANDUM

(619) 533-5500

DATE: March 14, 2007

TO: Chairperson, Park and Recreation Board

FROM: City Attorney's Office, Public Integrity Unit

SUBJECT: Fox Canyon/Ontario Avenue and City Attorney's Investigative Report

In response to inquiries regarding the status of the Criminal Division's investigation of matters in connection with Fox Canyon, this is to inform the Board that the Public Integrity Unit has forwarded the City Attorney's Interim Report "The Ontario Avenue Connection and Fox Canyon Park" to the California Department of Justice, Attorney General's Office, Criminal Division.

As you probably know, the investigative report shows that a San Diego City Council member inappropriately directed City of San Diego staff to design an extension of a road which was paid for by public funds designated for urban parks projects. Typically, the costs associated with such a road would be paid by private developers interested in potential housing near the proposed park. Instead, special parks fees were diverted from the urban park and used for the road. Also, material misrepresentations were knowingly made in a grant application to the California Department of Parks, and in funding requests to the San Diego City Council regarding the Fox Canyon park project. The result is a loss to the City of San Diego of at least \$160,000, and possibly more.

Here, there are possible offenses which can only be prosecuted as felonies under the California penal code, with no misdemeanor penalty provisions. In other words, the California legislature has already determined that the conduct at issue, if proven, must be punished as a felony and cannot be prosecuted as a misdemeanor. The City Attorney's Office, Criminal Division, does not have jurisdiction to pursue such offenses.

In response, Senior Assistant Gary Schons, who is in-charge of the Attorney General's San Diego regional office, has submitted the City Attorney's investigative report to the San Diego County District Attorney, Bonnie Dumanis, for her Office's review.

MICHAEL J. AgUIRRE, City Attorney

By



Kimberly A. Urie

Deputy City Attorney, Public Integrity Unit