

CITY OF DALY CITY

REGULAR MEETING - CITY COUNCIL

AGENDA

Monday, February 09, 2009 - 7:00 PM

For those wishing to address the City Council on any Item on the Agenda or under Public Appearances/Oral Communications, please complete a Speaker Card located at the entrance to the Council Chambers and submit to a Staff Member as early in the meeting as possible.

Persons with disabilities who require auxiliary aids or services in attending or participating in this meeting should call the office of the City Clerk at 991-8078 as soon as possible.

CALL TO ORDER:

PLEDGE TO THE FLAG:

ROLL CALL:

PRESENTATIONS:

STAR Awards

APPROVAL OF MINUTES:

Regular Meetings of January 12 and January 26, 2009

APPROVAL OF AGENDA:

CONSENT AGENDA

All items listed on the Consent Agenda are considered to be routine and may be approved by one roll call vote of the City Council. There shall be no separate discussion of the matters on the Consent Agenda unless requested by a member of the City Council. If discussion is required, that item will be removed from the Consent Agenda and will be considered separately at the end of the Agenda.

Communications :

1. Department of Finance - re: Request to New Treasury Secretary to Include Local Agency Investment Losses in TARP Funding

AVAILABILITY OF PUBLIC RECORDS:

All public record to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the City Clerk's Office, City Hall located at 333 90th Street, Daly City, CA during normal business hours, at the same time that the public records are distributed or made available to the legislative body.

Resolutions :

2. Accepting Notice of Completion for Street Slurry Seal/Cape Seal 2008, Gellert Park Parking Lot and Bike Route Project on Callan Boulevard and Southgate Avenue
3. Acceptance and Appropriation of the San Mateo County Human Service Agency Food Stamp Outreach Program Stipend
4. Authorizing Budgetary Adjustments:
 - A Appropriation of \$12,812 from Peninsula Partnership Collaborative Grant

Check Registers :

5. Check Registers for the Month of January 2009

END OF CONSENT AGENDA

PUBLIC HEARINGS:

AWARD OF BIDS/CONTRACTS:

6. 40 Ton Rooftop VAV Unit Replacement for Civic Center North

RESOLUTIONS:

7. Finding of Public Convenience and Necessity for Alcohol Beverage Control License for Grocery Store at 108 Los Olivos Avenue

ORDINANCES:

8. Second Reading, Ordinance No. 1343, Repealing and Replacing Certain Sections of Chapter 13.08 of the Municipal Code Re: Water Service Rates

PUBLIC APPEARANCES/ORAL COMMUNICATIONS:

NOTE: Speakers are limited to two minutes, unless modified by the Mayor. The Council cannot take action on any matter raised under this item

APPOINTMENTS: Board/Commission Membership Committee Appointments

REPORTS:

9. Council Committee

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10. City Council

11. Staff

ADJOURNMENT:

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JANUARY 12, 2009

The meeting was called to order by Mayor Torres at 7:00 P.M.

ROLL CALL: Councilmembers Present:

Sal Torres, Mayor
David J. Canepa
Maggie Gomez
Michael P. Guingona
Carol L. Klatt

Staff Present:

Patricia E. Martel, City Manager
Kerry E. Burns, Assistant City Manager
Rose L. Zimmerman, City Attorney
K. Annette Hipona, City Clerk

Mayor Torres wished Happy Birthday to the City Manager Patricia Martel.

PRESENTATIONS:

Commending the Members of the First Graduating Class of the Daly City Citizens Academy

City Manager Patricia Martel stated the Daly City Citizen Academy was established this past year. Citizens were invited to make a commitment to come to City Hall weekly for nine weeks to learn about all City operations.

Mayor Torres presented Certificates of Commendation to the First Graduating Class of the Daly City Citizens Academy to the following members:

Cristina M. Alcantara	Bill Hamilton	Joseph T. Mees
Mike Alonso	Jean Hayner	Kristen Mees
Robert L. Alves	Gloria Jacamo-Argueta	Anahit Petrosian
Susan Beaulien	Khatchatour Chris Kerelian	Gary Rudolph
Barbara Bernhart	Arshak Ben Kerelian	Ivory Speech
Ronald Bourdon	Susan Kurucz	Diana Stephens
Josephine Chetty	Victor Lee	Paula Stillman
Grace Chiu	Edward Lusnich	Michael Valencia
Richard Crump	Josefina Manalo	Clarke Wells
Larry J. Gallagher	Abby Margolis	Eugene Young
		William Yung

9th Annual Daly City Holiday Decoration Contest

Marian Mann reported that sixteen homeowners association in Daly City participated in the 9th Annual Daly City Holiday Decoration Contest. The winners of each association will be given their awards by Mayor Torres, Rex Golibic, Owner of Serra Bowl and a representative from each homeowner association.

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PRESENTATIONS: Continued

9th Annual Daly City Holiday Decoration Contest – Cont'd.

Mayor Torres presented awards to the following:

Serramonte Homeowners Association	Saddleback Homeowners Association
Nasar Khoury	Vlad & Nela Veis
Bayshore Residents Association	St. Francis Heights Homeowners Association
Gilbert Bumamlag	Purissima Struve
Crocker Neighborhood Association	Serra Vista Homeowners Association
Rene & Maria Mendoza	Paed & Norma Delfin
Cypress Point Homeowners Association	Skyline-Palisades Residential Association
Navarro Prado	Vilma & Raymundo Bermudez
Franciscan Mobile Homeowners Association	Southern Hills Homeowners Association
Jose & Annette Miramontes	Victor & Lia Rivadeneyra
Hillside Homeowners Improvement Association	Summit Ridge Homeowners Association
Mary Cuneo	Fortune & Jane Chua & Family
John Daly Residents Association	Westlake Knolls Homeowners Association
Lawrence Harris	Virgilio Subido Family
Original Daly City Protective Association	Ravilla Court
Besilda & Valentino Mandapat	Leonard & Carmen Ramos

Commending Rex Golobic, Owner of the Serra Bowl

Mayor Torres presented a Certificate of Commendation to Rex Golobic, owner of the Serra Bowl in recognition of his support of many charitable events that have used Serra Bowl as a venue to promote social and humanitarian causes. Mr. Golobic thanked the Council.

APPROVAL OF MINUTES:

Regular Meetings of November 10 and December 8, 2008 and Special Meeting of December 1, 2008

It was moved by Councilmember Klatt, seconded by Councilmember Guingona and carried to approve the minutes of November 10, December 1 and December 8, 2008. Councilmember Canepa abstained on the minutes of November 10, 2008.

APPROVAL OF AGENDA:

It was moved by Councilmember Gomez, seconded by Councilmember Klatt and carried to approve the agenda.

Mayor Torres stated it was requested that Item No. 2, Commending Maria Cortes Upon Her Retirement, would be taken at the end of the Consent Agenda.

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CONSENT AGENDA

COMMUNICATIONS:

Approving Plans and Specifications, Affirming CEQA Determination and Authorizing Solicitation of Bids for Replacement Generator at Reservoir 6B

RESOLUTIONS:

Setting Time and Place of Public Hearing – re: Amending Section 13.08.060 Payment of Accounts – Failure to Pay and Section 13.08.080 Charges for Turning on Service, of the Daly City Municipal Code

Resolution No. 09-1, Setting Time and place of Public Hearing Re: Amending Section 13.08.060 Payment of Accounts – Failure to Pay and Section 13.08.080 Charges for Turning on Service, of the Daly City Municipal Code(Hearing Date: January 26, 2009, Time: 7:00 P.M.)

Request for Appropriation of \$75,000 from Fund Balance for Property Room Upgrades

Resolution No. 09-2, Authorizing Appropriation of \$75,000 from Fund Balance for Police Property/Evidence Room Upgrades

Authorization to Purchase Used Tractor-Drawn Aerial Ladder Truck from the City of Park City, Utah in the Amount of \$300,000

Resolution No. 09-3, Authorizing Purchase of Used Tractor-Drawn Aerial Ladder Truck

Authorization to Purchase New Tractor-Drawn Aerial Ladder Truck from Smeal Fire Apparatus Company in the Amount of \$868,633

Resolution No. 09-4, Authorizing and Appropriating the Purchase of New Tractor-Drawn Aerial Ladder Truck

Approval of Amendment #1 to Professional Services Agreement with Brown and Caldwell for Reservoir 2B Replacement Project

Resolution No. 09-5, Authorizing Execution of First Amendment to Agreement for Professional Services Between City of Daly City and Brown and Caldwell Inc. (Reservoir 2B Replacement Project)

Authorizing Budgetary Adjustments

Resolution No. 09-6, Authorizing Budgetary Adjustments and Appropriations for Fiscal Year 2008-2009

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CONSENT AGENDA: Continued

RESOLUTIONS: Continued

Authorizing Budgetary Adjustments – Cont'd.

- A. Request for an Additional \$10,000 for Digital Conversion of Microfiche Records. Actual Count of Microfiche Records Exceeds Original Estimate. \$65,000 Originally Approved by Council Resolution 08-132
- B. Appropriation of \$18,000 Grant from the California State Library under the Public Library and Baby Boomers Grant Program

CHECK REGISTERS:

Check Registers for the Month of November 2008

END OF CONSENT AGENDA

It was moved by Councilmember Gomez, seconded by Councilmember Guingona and carried to approve and adopt the Consent Agenda, as amended.

RESOLUTIONS:

Commending Maria Cortes Upon Her Retirement

Councilmember Klatt asked to pull this from the Consent Agenda and stated that the City is going to hold a reception for Maria Cortes in recognition of her many years of distinguished public service on January 22, 2009 between 3:00 to 5:00 P.M.

It was moved by Councilmember Guingona, seconded by Councilmember Klatt and carried by unanimous roll call vote to adopt the following resolution:

Resolution No. 09-7, Commending Maria E. Cortes

COMMUNICATIONS:

Use Permit, Design Review and Environmental Assessment for New Construction of Two Duplexes at 363 San Diego Avenue (near Vista Grande Avenue) (Cont'd. from 10/27/08)

Planning Manager Tatum Mothershead gave a PowerPoint presentation on the project site and the applicant's revised proposal.

Ms. Mothershead stated on October 27, 2008, the City Council reviewed this item, at which time the City Council had concerns about the overall size of the project and directed the applicant to reduce the bedroom count of the project.

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COMMUNICATIONS: Continued

Use Permit, Design Review and Environmental Assessment for New Construction of Two Duplexes at 363 San Diego Avenue (near Vista Grande Avenue) (Cont'd. from 10/27/08)
Cont'd.

In the revised proposal, the lower unit in the northerly duplex remains unchanged from what was previously reviewed by Council. The lower unit of the southerly duplex contains four bedrooms and four bathrooms and the upper unit continues to contain three bedrooms and three bathrooms. The total number of bedrooms has been reduced from sixteen to fifteen.

The applicant has also revised the proposal to slightly increase the size of the third floor decks. These areas are already included in lot coverage but do slightly increase overall mass and bulk of the buildings.

Councilmember Gomez hoped for some symmetry with the reduction of the bedrooms, such as three and three and she did not see this as being conducive to the neighborhood.

Councilmember Klatt was concerned with the possibility of the first floor units being converted to secondary units.

Mayor Torres was concerned with part of the changes involving additional building. Mayor Torres recalled that the Council wanted the duplexes reduced, not increased. They specifically spoke about the number of bedrooms needing to be reduced.

The following individuals answered Council's questions regarding the reduction of the bedrooms:

Bill Guan, Project Manager, XIE Associates
Sharon Hilgert, owner
Scott Hilgert, owner

It was moved by Councilmember Guingona, seconded by Councilmember Gomez and carried to continue this item to the meeting of February 23, 2009.

PUBLIC APPEARANCES/ORAL COMMUNICATIONS:

Garrett Quon, representing the Police Assistants II, requested an appeal before the City Council regarding the denied of a grievance for some of our members by the Personnel Board. They asked for a fair hearing and an impartial resolution. Mr. Quon submitted a petition signed by all members of our group in Teamsters Local 856 concerning the City's refusal to pay retroactive pay for those employees that performed the duties associated with the Police Assistant II classification.

Marian Mann thanked the City and the City Council for taking such an interest in our community. Ms. Mann expressed appreciation for the City's recognition of Rex Golobic and for the City employees.

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APPOINTMENTS:

Board/Commission Membership Committee Appointments

Planning Commission

It was moved by Councilmember Gomez, seconded by Councilmember Guingona and carried to appoint Segundo Bautista to the Planning Commission with term expiring November 28, 2012.

REPORTS:

Council Committee

Council Committee Meetings from December 8, 2008 - January 11, 2009

The Council Committees reported on Design Review Permit DR08-12, 101 Parkview Avenue (Miriam Street at Parkview Avenue) Two Single Family Residences for Habitat for Humanity Greater San Francisco. (Guingona/Canepa)

City Council

There were no reports.

Staff

City Manager Patricia Martel announced the City Council will hold a Study Session on Wednesday, January 21, 2009 at 5:30 p.m. to 7:30 p.m.

It was moved by Councilmember Gomez, seconded by Councilmember Klatt and carried to recess the meeting to sit in Closed Session at 8:10 P.M.

The meeting reconvened at 9:00 P.M.

CLOSED SESSION:

From the closed session of the Daly City City Council the following report is provided pursuant to California Government Code Section 54957.1 (The Ralph M. Brown Act):

- A. Conference with Legal Counsel – Anticipated Litigation, pursuant to Government Code Section 54956.9

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CLOSED SESSION: Continued

Significant Exposure to Litigation to Subdivision (b) of Government Code Section 54956.9. Meeting pursuant to Government Code Section 54956.9(b)(2) to evaluate litigation exposure; if confirmed, continued session pursuant to Government Code Section 54956.9(b)(1).

Number of Cases: Three

The City Council began the closed session pursuant to Government Code Section 54956.9(b)(2) to decide if there was significant exposure to litigation against the City warranting closed session upon this matter. Upon reviewing the facts, a unanimous City Council decided a closed session was warranted, and this matter immediately proceeded into closed session.

ADJOURNMENT:

It was moved by Councilmember Gomez, seconded by Councilmember Klatt and carried to adjourn the meeting in memory of Nick Wilmes, Bruna Dalporto, William “Bill” Lewellyn, Jr., William Fort, Sharon Henderson and Kim Keung Lee.

City Clerk

Approved as submitted, this _____

day of _____, 2009.

Mayor

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JANUARY 26, 2009

The meeting was called to order by Mayor Torres at 7:04 P.M.

ROLL CALL: Councilmembers Present:

Sal Torres, Mayor
David J. Canepa
Maggie Gomez
Michael P. Guingona
Carol L. Klatt

Staff Present:

Patricia E. Martel, City Manager
Kerry E. Burns, Assistant City Manager
Rose L. Zimmerman, City Attorney
K. Annette Hipona, City Clerk

PRESENTATIONS:

Proclaiming Herbert Hamrol Day in Daly City

Mayor Torres presented a proclamation proclaiming January 26, 2009, as Herbert Hamrol Day to Herbert Hamrol who turned 106 years old on January 10, 2009.

Leadership Academy Presentations

City Manager Patricia Martel introduced the 2nd Graduating Class of the Leadership Academy.

Team CEO: Rey Asuncion, Tim Birch, Maritess Lagandaon, Leslie Peay Heckman, Tim Nevin, Angela Waters

The following members of Team CEO gave a PowerPoint presentation on the Model for Civic Engagement:

Tess Lagandaon, Business Center, Economic & Community Development
Angela Waters, Parks and Recreation
Tim Nevin, Water & Wastewater Resources
Tim Birch, Public Library
Leslie Peay Heckman, Parks and Recreation
Rey Asuncion, Police Department

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PRESENTATIONS: Continued

Team Opportunity: Dennis Bray, Jesse Dela Cruz, Joyce Gregorio, Andy Serrano, Earl Wong, Keith Young

The following members of Team Opportunity gave a PowerPoint presentation on the Management Talent Exchange Program.

Keith Young, Economic & Community Development, Code Enforcement
Dennis Bray, Parks and Recreation
Andy Serrano, Community Services
Jesse Dela Cruz, Parks and Recreation
Joyce Gregorio, Police Department
Earl Wong, Economic & Community Development, Building Division

APPROVAL OF AGENDA:

It was moved by Councilmember Gomez, seconded by Councilmember Klatt and carried to approve the agenda.

CONSENT AGENDA

Mayor Torres stated it was requested that Item No. 4, Adopting Revision to Police Assistant II Job Specification (Civil Service) be taken at the end of the Consent Agenda.

COMMUNICATIONS:

Quarterly Cash and Investment Report

Report on Collection and Use of Developer Public Facility Fees

RESOLUTIONS:

Adopting Revision to Fire Engineer Operator Job Specification (Civil Service)

Resolution No. 09-8, Adopting Revised Job Specifications for the Position of Fire Engineer Operator

Approving Extension of Temporary Appointment of Interim Police Chief

Resolution No. 09-9, Authorizing and Approving Agreement for Interim Police Chief Services

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CHECK REGISTERS:

Check Registers for the Month of December 2008

Check Registers for the month of December 2008

END OF CONSENT AGENDA

It was moved by Councilmember Guingona, seconded by Councilmember Klatt and carried to approve and adopt the Consent Agenda, as amended.

RESOLUTIONS:

Adopting Revision to Police Assistant II Job Specification (Civil Service)

Councilmember Gomez requested that this item be continued to the meeting of February 23, 2009.

It was moved by Councilmember Gomez, seconded by Councilmember Guingona and carried to continue this item to the meeting of February 23, 2009.

PUBLIC HEARINGS:

Amending Section 13.08.060 Payment of Accounts – Failure to Pay and Section 13.08.080 Charges for Turning on Service, of the Daly City Municipal Code, and Adopting Related Penalties

Director of Finance and Administrative Services Don McVey recommended that the City Council modify the municipal code to allow the revision of fines and fees for failure to pay and turning on service because of the number of delinquent payments has grown to such an extent that it is affecting the staff's time in both Utility Billing and Water Operations to perform their duties. He also recommends that the City Council adopt by resolution the revised schedule of Water Late Payment Penalties similar to the way false alarms penalties are handled.

It was moved by Councilmember Klatt, seconded by Councilmember Gomez and carried that Ordinance No. 1343 be read by title only by the City Attorney.

Councilmember Klatt introduced the following ordinance:

Ordinance No. 1343, Repealing and Replacing Certain Sections of Chapter 13.08 of the Municipal Code Re: Water Service Rates

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PUBLIC HEARINGS: Continued

Supplemental Law Enforcement Services (SLES) Funds (Request to Table) (Cont'd. from 12/08/08)

City Attorney Rose Zimmerman requested that this item be tabled.

It was moved by Councilmember Guingona, seconded by Councilmember Klatt and carried to table this item.

COMMUNICATIONS:

Use Permit, Design Review and Environmental Assessment for the Establishment of Limited Accessory Vehicle Sales in Conjunction with Two Story Addition at 365 87th Street

Planning Manager Tatum Mothershead gave a PowerPoint presentation on the project site and reviewed the applicant's proposal to establish limited vehicle sales as an accessory use to the existing auto repair business at 365 – 87th Street, in conjunction with the construction of a two story addition at the rear of the existing building along the 88th Street frontage.

The two-story addition will replace an outdoor parking area for automobiles being repaired on-site. The first floor of the new addition will be for vehicle parking, and the second floor will consist of a new office, bathroom and conference room for employee use only.

Discussion ensued with staff and the applicant answering Council's questions.

It was moved by Councilmember Guingona, seconded by Councilmember Gomez and carried to concur with the Categorical Exemption under CEQA requirements.

It was moved by Councilmember Gomez, seconded by Councilmember Guingona and carried to affirm the findings of the Planning Commission as contained in their communication on file in the Office of the City Clerk.

It was moved by Councilmember Gomez, seconded by Councilmember Guingona and carried by unanimous roll call vote to adopt the following resolution:

Resolution No. 09-10, Adopting Findings of Fact and Imposing Conditions of Approval on Use Permit UP08-17 and Design Review DR08-10 at 365 87th Street

It was moved by Councilmember Gomez, seconded by Councilmember Guingona and carried to approve Use Permit UP08-17 and Design Review DR08-10, subject to Conditions of Approval.

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PUBLIC APPEARANCES/ORAL COMMUNICATIONS:

Rudy Gonzales, Teamsters Local 856 labor representative, stated the Police Assistant submitted a petition asking for a fair and impartial resolution to a grievance they have open and asked for an appeal by the City Council in regards to the grievance where activity pay was denied by the Personnel Board. At Mayor's request, they formalized that request in writing and sent it by certified mail to the City. It was signed by staff on the January 14, 2009. To date, the union has yet to hear back from the City. He asked for a response to their request.

The following individuals spoke in support of the School District's Parcel Tax plans:

Melinda Dart, Fourth Grade Teacher of Woodrow Wilson School and President of
AFT 3267

LaSchaunda Smaw, PTA President for Marjorie Tobias School

Darryl Fracas, Architect from Los Gatos, was in favor of windmills in Daly City and asked the Council to consider putting windmills on all City-owned property.

APPOINTMENTS:

Board/Commission Membership Committee Appointments

There were no appointments.

REPORTS:

Council Committee

Council Committee Meetings from January 12-25, 2009

The Council Committees reported on the following:

AT&T Project Lightspeed Briefing on Astound (formerly RCN) (Guingona/Torres)
Conceptual Review CR08-10 Façade sign for DeVry University at 2001 Junipero Serra
Boulevard (Pacific Plaza) (Guingona/Klatt)

City Council

Councilmember Gomez reported she attended a meeting of the County Office of Emergency Services at which time they discussed the event "Silver Dragon III" where the CERT team and representatives will canvass particular neighborhoods in an exercise in light search and rescue for communications. The Health Department, Center for Disease Control, will deliver antibiotics within 48-hours for a mock Anthrax Exposure.

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REPORTS: Continued

City Council – Cont'd.

Councilmember Gomez also reported that John Hancock of Joint Ventures of Silicon Valley gave a presentation on a conceptual idea regarding locating its Regional Disaster Planning Initiative in part of the hangar at Moffet Fields to store supplies, equipment and run training programs.

Staff

City Manager Patricia Martel gave a report on the Economic Stimulus package that everyone has been hearing about and wanted to advise the Council that San Mateo County is actively working among all the cities through C/CAG to develop proposals that can be submitted if money flows to the County from the State, the City would be prepared to assume some funding for projects. The City staff has developed two new projects to submit for consideration, the Top of the Hill Project and Pavement Rehabilitation Program.

ADJOURNMENT:

It was moved by Mayor Torres, seconded by Councilmember Klatt and carried to adjourn the meeting at 9:14 P.M. in memory of Michael Wegher, William Scott and Yu T Zhu Wong.

City Clerk

Approved as submitted, this _____

day of _____, 2009.

Mayor



City Council Agenda Report

Item # _____

Meeting Date: February 9, 2009

Subject: Request to New Treasury Secretary to Include Local Agency Investment Losses in TARP Funding

Recommended Action

City Council endorsement to add Daly City as a signatory to a letter to the new Treasury Secretary requesting he include local agency losses in TARP funding.

Discussion

A large number of local agencies in California will be sending a letter to the new Treasury Secretary, Timothy F. Geithner, requesting that losses from Lehman Bros. and Washing Mutual be included in the TARP bail-out program. As a participant in the County Investment Pool, the City of Daly City has approximately \$1.7 million at risk in the Lehman Bros. bankruptcy. Including Daly City as a signatory to the request for assistance is therefore appropriate.

In addition to this effort, Jackie Speier and Anna Eshoo (HR 467) and Dianne Feinstein (S116) have introduced bills to include these losses in the federal bail-out program.

Fiscal Impact

Should Treasury include these failed investments in the TARP, we expect that there would be full reimbursement for the losses sustained by the County Investment Pool.

Staff is available to provide any additional information desired by the Mayor or City Council Members.

Respectfully submitted,

Donald W. McVey
Director of Finance and
Administrative Services

Anthony J. Zidich
City Treasurer

Attachment: Letter to Treasury Secretary

cc: City Manager
City Attorney
City Clerk

February 3, 2009

Honorable Timothy F. Geithner
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

RE: Local Agency Trouble Assets

Dear Secretary Geithner:

We, the undersigned, respectfully request that you purchase debt securities to eliminate exposure of losses of taxpayer dollars arising from investments in Lehman Brothers Holdings, Inc., and Washington Mutual. We represent cities, counties, schools and special districts throughout the State of California and we hold debt securities in these two institutions. By law, we can only invest in what are deemed conservative instruments that are rated at least investment grade. These investments represent taxpayer money that was intended to be used for all manner of local government needs including school classroom construction, health care, police and fire services.

Combined our par value exposure is \$350 million. Public agencies across the country have lost a minimum of an additional \$1.67 billion, including Sarasota County, Florida \$40 million, Mohave County, Arizona \$5 million, Massachusetts State College Building Authority \$5.2 million, Michigan State University \$10 million and the list goes on.

The securities we own meet the definition of "Troubled Assets" found in Section 3(9) of the Emergency Economic Stabilization Act of 2008. The ultimate purpose of the Act is to stabilize the financial system while protecting taxpayers. In other words, it is our position that there is no better way to protect the taxpayers than by the Secretary exercising the authority to purchase Troubled Assets that are directly owned by taxpayers.

The recital/preamble of the Emergency Economic Stabilization Act of 2008 states in part that the intent of the Act is:

[t]o purchase and insure certain types of troubled assets for the purpose of providing stability to and preventing disruption in the economy and financial systems and protecting taxpayers...

The Emergency Economic Stabilization Act of 2008, Troubled Assets Relief Program (TARP) contains specific provisions, including Section 103, authorizing the Secretary of the Treasury to take action to provide relief. In fact, at the behest of Congresswoman Eshoo, working closely with Financial Services Chairman Barney Frank, the language contained in that Section, subpart 7 was included to direct you to consider the stability of public instrumentalities, such as cities and counties that have suffered losses due to the bankruptcies. For instance, subparts 1 and 2 direct you to consider the interests of taxpayers and the protection of jobs and retirement security. Loss of these investments may mean teachers will be out of work instead of in the classroom. Subparts 4 and 5, require you to consider the long-term viability of financial institutions and ensure that all institutions are eligible to participate. It is a matter of equity that Lehman and Washington Mutual are able to participate in this rescue program and as a matter of fairness for the taxpayers of public agencies in California and across the nation.

It would be inequitable were the federal bailout to buy bad mortgages, shore up Wall Street financial institutions, yet fail to protect agencies' taxpayer money. Moreover, local governments operate in the open and are transparent to taxpayers and federal regulators. The elected officials that oversee these agencies are held accountable. As mandated investors of local agency funds, city, county and district treasurers are integral parts of the financial systems of this country. The purpose of the Act directly addresses our situation. We hold "troubled assets" the loss of which will disrupt and destabilize our local economy as well as these national and local "financial systems." Most importantly, purchase of these troubled assets would directly "protect taxpayers" since it is their tax dollars which are at risk. These assets do not represent complex financial instruments in which some people got rich while others got in over their heads. Rather, these instruments represent an attempt at conservative stewardship of public funds, the loss of which was caused by the sudden collapse of the oldest investment bank in our country. These investments appeared far from risky and represent the backbone of local government finance.

Our collective exposure represents a severe financial hardship to our agencies, and to all our local schools and special districts. Our Treasurers had invested in these assets in good faith and in conformance with all of our statutory limitations and conservative policy considerations. These losses have severely impacted the budgets of our local government entities. Without mitigation the losses will impact the delivery of all manner of local government programs and services, including police, fire, health care, transportation, education and the construction of classrooms.

We ask that you consider the effect of this potential loss and use your authority to equally protect Main Street as Treasury has already done for Wall Street, and protect taxpayer moneys held by local governments across the country that have become the unintended victims of the Lehman bankruptcy and the failure of Washington Mutual. U.S. Senator Dianne Feinstein and Representatives Barney Frank, Anna Eshoo and Jackie Speier, are working on legislation requiring federal TARP money be used to help local governments harmed by these investments in now-failed financial institutions. They believe, as do we, that the Treasury has the authority and more over, the responsibility under the Act to protect local taxpayers.

Accordingly, we respectfully request that you authorize the federal purchase or insurance of these assets under the provisions of the TARP program. We also request a meeting in Washington with you to discuss this urgent matter.

Sincerely,

National Association of Counties
National League of Cities
US Conference of Mayors
Association of Public Treasurers of the United States and Canada
California State Association of Counties
California Municipal Treasurers Association
County of Madera
County of San Mateo
County of Monterey
County of Sacramento
County of Placer
County of Plumas
Tehama County Treasurer
County of Tuolumne
San Mateo County Transportation Authority
Peninsula Corridor Joint Powers Board
San Mateo County Superintendent of Schools
Beach Cities Health District
Calaveras Water District
Marin Municipal Water District
Metropolitan Water District of Southern California
Modesto Irrigation District
Orange County (California) Transportation Authority
Vallejo Sanitation and Flood Control District
City of Auburn
City of Burbank
City of Costa Mesa
City of Cerritos
Culver City
City of El Segundo
City of Fremont
City of Folsom
City of Fontana
City of Glendale
City of Long Beach
City of Loomis
City of Moreno Valley
City of Santa Clarita
City of Shafter
City of Thousands Oaks
City of Ventura



City Council Agenda Report

Item # _____

Meeting Date: February 9, 2009

Subject: NOTICE OF COMPLETION FOR STREET SLURRY SEAL/CAPE SEAL 2008, GELLERT PARK PARKING LOT AND BIKE ROUTE PROJECT ON CALLAN BOULEVARD AND SOUTHGATE AVENUE

Recommended Action

Staff recommends that the City Council accept the improvements completed for the Street Slurry Seal/Cape Seal 2008 project, Gellert Park Parking Lot and Bike Route Project on Callan Boulevard and Southgate Avenue.

Background

The annual slurry seal project, the project to improve the Gellert Park parking lot and the project to install a bike route on Callan Boulevard and Southgate Avenue were awarded as a single project to American Asphalt Repair and Resurfacing Co., Inc. ("American Asphalt, Inc.") by City Council action on June 23, 2008.

The project included street slurry sealing and cape sealing work (Base Bid and Alternates 1, 2, and 3), parking lot pavement improvements at Gellert Park (Alternate 5) and installation of signs and pavement markings to designate new bike routes on Callan Boulevard and Southgate Avenue (Alternate 6). Slurry sealing and cape sealing reduces water penetration in the roadway base and the resulting damage. Slurry seals and cape seals with crack sealing and patch repair extends pavement life by approximately five-to-seven years.

The pavement improvement work at the Gellert Park parking lot included repairing potholes, applying a chip seal and microsurfacing the parking lot. Microsurfacing is an alternate to slurry sealing that was anticipated to perform better on the parking lot surface than slurry sealing. The work also included widening the parking lot entrance. The combination of chip sealing and microsurfacing provides a four-to-six year solution for treating the parking lot surface.

The project included installation of signs and pavement markings to designate the bike routes on Callan Boulevard from Serramonte Boulevard to Southgate Avenue and Southgate Avenue from St. Francis Boulevard to Junipero Serra Boulevard for a total length of approximately one mile.

Discussion

American Asphalt, Inc. of Hayward, California, has completed all improvements required by the construction contract for a total amount of \$1,129,938.54. The original contract award was for \$1,088,272.80. The increase of \$41,665.74 is due to pavement repair work on Hillside Boulevard between Price Street and East Market Street that was added and performed during the construction phase of the project.

**Notice of Completion for Street Slurry Seal/Cape Seal 2008,
Gellert Park Parking Lot and Bike Route Project on Callan
Boulevard and Southgate Avenue
Meeting Date: February 9, 2009
Page 2 of 3**

Staff recognizes the inconvenience of any street maintenance work to the public and developed enhanced public outreach efforts from the experience gained in previous years. Public outreach efforts included:

- Distribution of a notification letter to the residents living within 300 feet of the streets scheduled for application of a slurry seal or cape seal.
- Creation of a project website to allow the residents to check on the status of the project via the City's website and better anticipate the contractor's work schedule.
- Posting of "No Parking" signs on streets and hand delivery of communiqués by the Contractor to the residents impacted by work two days prior to the application of a chip seal or slurry seal
- Scheduling of work in the vicinity of schools when classes or summer recreation programs were not in session, greatly reducing impacts to students, parents, teachers, and administrators.
- Coordination of parking restrictions with the scheduled street sweeping and waste collection.
- Distribution of an additional communiqué to residents citing the Municipal Code advising of the possible consequences of driving on closed streets with wet slurry. There was an increased presence of police assistant units and patrol to aid in code enforcement.

The Gellert Park parking lot project design and schedule were coordinated with Library and Parks and Recreation Department staff. Widening of the parking lot entrance and pothole repairs did not require full parking lot closures and occurred first. Full parking lot closures were required on days of chip sealing and temporary stall painting (one day), microsurfacing and temporary stall painting (2 days) and final stall striping and marking (one day). Signs were posted with scheduled parking lot closure dates at ten locations in and around the parking lot prior to the parking lot closures.

Fiscal Impact

Sufficient funds were available to complete the contract in the previously approved project budget accounts. The realized total costs by project budget account were as follows:

<u>Account No.</u>	<u>Description</u>	<u>Total Cost</u>
17-312-618	Street Slurry Seal/Cape Seal 2008	\$997,192.37
33-312-524	Improvements at Gellert Park Parking Lot	\$117,266.17
17-312-669*	Bike Route on Callan Boulevard and Southgate Avenue	\$15,480.00
Grand Total		\$1,129,938.54

* The project to add a bike route received a grant of \$15,000 from the Bay Area Air Quality Management District.

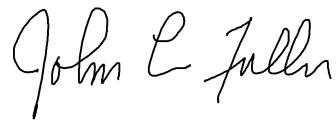
**Notice of Completion for Street Slurry Seal/Cape Seal 2008,
Gellert Park Parking Lot and Bike Route Project on Callan
Boulevard and Southgate Avenue
Meeting Date: February 9, 2009
Page 3 of 3**

Summary/Conclusion

The contractor's work is now complete and acceptable for City maintenance. Staff recommends that the City Council accept the completed improvements for the City's maintenance and beneficial use.

Staff is available to provide any additional information desired by the Mayor or City Council Members.

Respectfully submitted,

A handwritten signature in black ink, reading "John L. Fuller". The signature is written in a cursive, flowing style.

John L. Fuller
Director of Public Works

HWL/dc

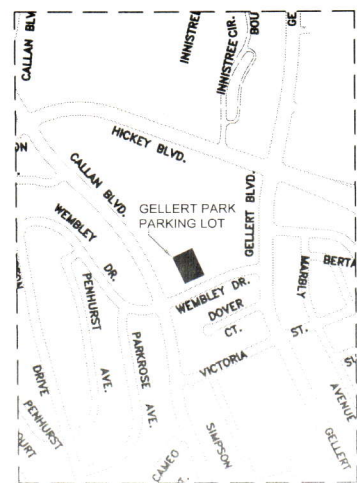
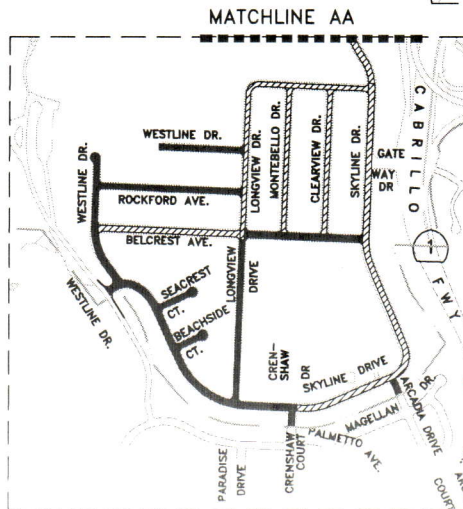
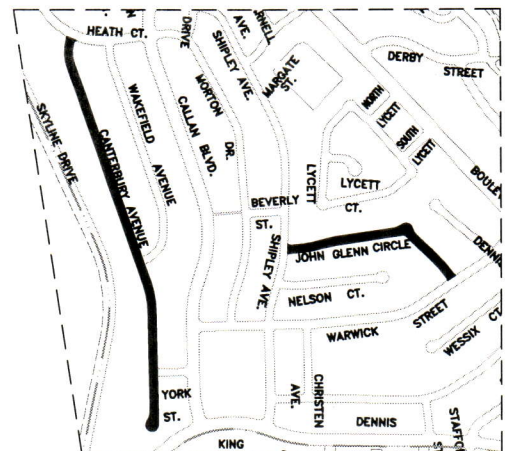
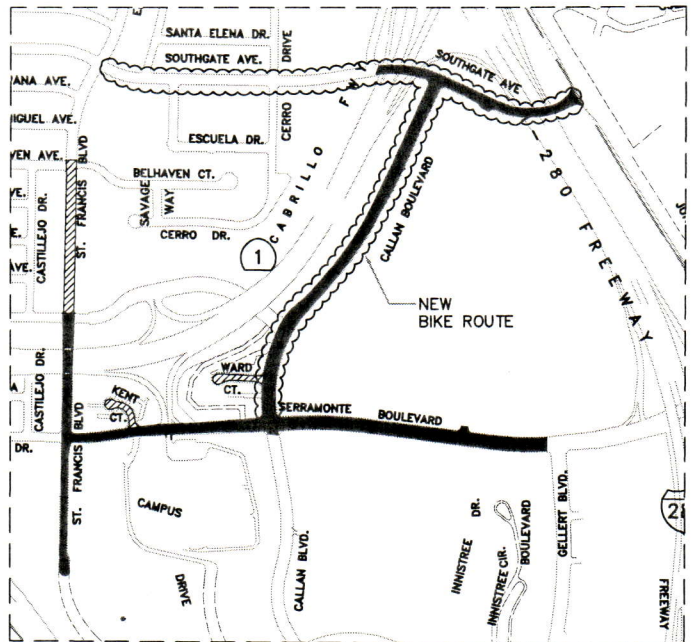
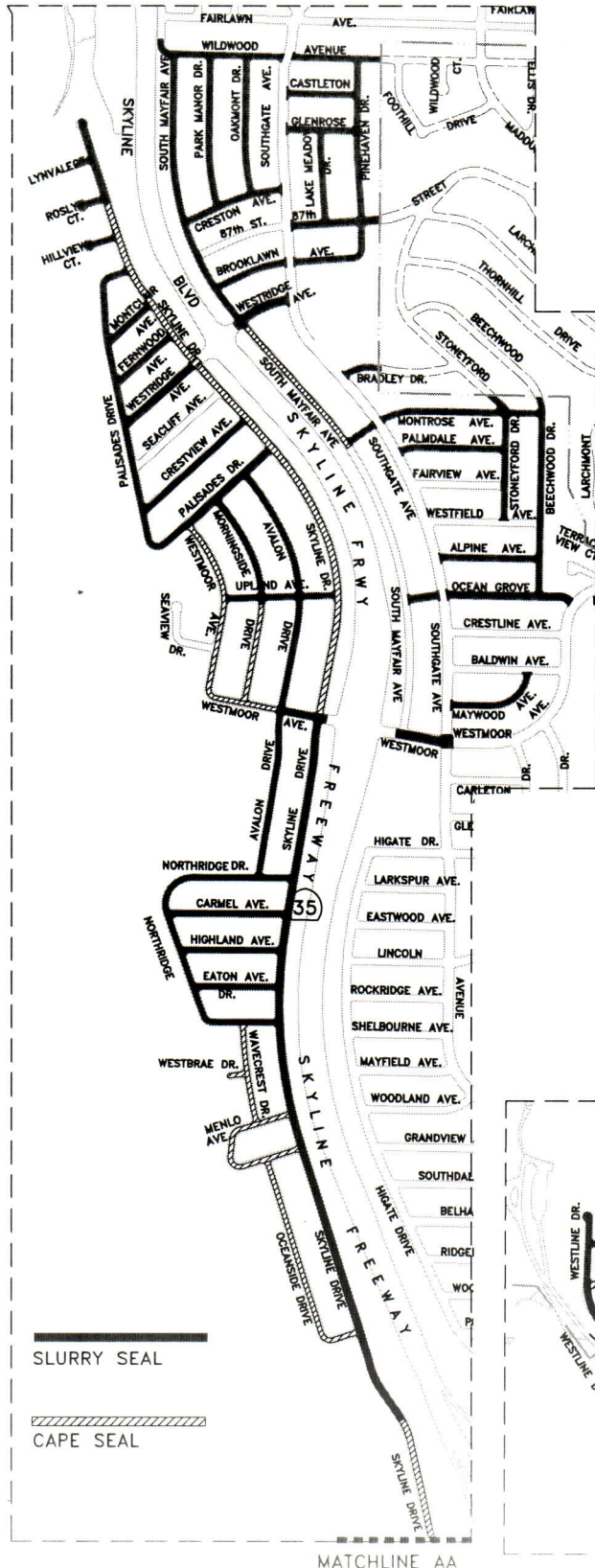
Attachment: Location Map

cc: City Clerk – Notice of Completion and Resolution
City Manager
City Attorney

CITY OF DALY CITY

SAN MATEO COUNTY, CALIFORNIA

STREET SLURRY SEAL / CAPE SEAL 2008, GELLERT PARK PARKING LOT, AND CALLAN BOULEVARD AND SKYLINE AVENUE BIKE ROUTE



RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO

OFFICE OF THE CITY CLERK
CITY OF DALY CITY
333 - 90th Street
Daly City, California 94015

Notice of Completion

NOTICE IS HEREBY GIVEN as follows:

1. The date of completion of the work of improvement is: February 9, 2009
2. The owner of the work of improvements is: City of Daly City, a Municipal Corporation.
3. The address of the owner of the work of improvement is: City Hall
333 - 90th Street
Daly City, California 94015
4. The nature of the owner's interest or estate is: In fee.
5. The work of improvement is located in Daly City, California, and is particularly described as follows:

**STREET SLURRY SEAL/CAPE SEAL 2008
GELLERT PARK PARKING LOT AND
CALLAN BOULEVARD & SOUTHGATE AVENUE BIKE ROUTE**

6. The name of the original contractor for the work of improvement is:

American Asphalt, Inc.
242 Clawiter Road
Hayward, CA 94545

Dated: _____

The undersigned, being duly sworn, says: That he is the owner of the aforesaid interest or estate in the property described in the foregoing notice; that he has read the same, and knows the contents thereof, and that the facts stated therein are true.

CITY OF DALY CITY, OWNER

Ravi Gehani, Acting City Engineer

STATE OF CALIFORNIA,

COUNTY OF _____ } ss.

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20 _____,

by _____, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature _____

Name (Typed or Printed)
Notary Public in and for said County and State

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DALY CITY ACCEPTING
COMPLETION OF CERTAIN PROJECT IN THE
DEPARTMENT OF PUBLIC WORKS

(STREET SLURRY SEAL/CAPE SEAL 2008, GELLERT PARK PARKING LOT AND
CALLAN BOULEVARD & SOUTHGATE AVENUE BIKE ROUTE)

A. The Project Manager has advised that the project set forth hereinafter has been completed in accordance with the terms of the contract with the City of Daly City and AMERICAN ASPHALT, INC., a California Corporation.

B. The City Council of the City of Daly City desires to acknowledge the completion of such project so that notice of completion may be given.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Daly City that pursuant to the above, the City of Daly City does hereby accept as complete the following described project:

**STREET SLURRY SEAL/CAPE SEAL 2008,
GELLERT PARK PARKING LOT AND
CALLAN BOULEVARD & SOUTHGATE AVENUE BIKE ROUTE**

BE IT FURTHER RESOLVED by the City Council of the City of Daly City that said project be, and it is hereby accepted as complete, and at the expiration of thirty-five (35) days from this date, final payment in connection with this project be, and it is hereby authorized, provided that all statutory liens, claims and withholds are satisfied pursuant to law.

I hereby certify the foregoing to be a true copy of a Resolution adopted by the City Council of Daly City, California, at a regular meeting thereof held on the _____ day of _____, 20____, by the following vote of the members thereof:

AYES, and in favor thereof, Councilmen: _____

NOES, Councilmen: _____

ABSENT, Councilmen: _____

CITY CLERK OF THE CITY OF DALY CITY

APPROVED:

MAYOR OF THE CITY OF DALY CITY



City Council Agenda Report

Item # _____

Meeting Date: February 9, 2009

**Subject: AWARD OF CONTRACT FOR 40 TON ROOFTOP VAV UNIT
REPLACEMENT FOR CIVIC CENTER NORTH**

Recommended Action

Staff recommends that the City Council accept all bids, waive minor irregularities and award a construction contract for the 40 Ton Rooftop Variable Air Volume (VAV) Unit replacement for the Civic Center North project to the lowest responsible bidder, Carrier Commercial Services of San Leandro, California, for the total bid amount of \$69,775.00. Staff further recommends that the City Council authorize the City Manager to award the contract to the next lowest responsible bidder, without further action by the City Council, if the first low bidder awarded the contract fails to execute the contract within the time limit specified in the bid documents.

Staff recommends that the City Council transfer \$83,000 from the Civic Center fund to fund construction, contingency and construction inspection costs.

Background

The work includes the removal of existing rooftop unit and installation of a new 40 ton rooftop VAV unit and work associated with it.

The existing VAV unit located on the roof of this 3-story building functions as an air handling device to condition and circulate air throughout the Heating, Ventilating and Air Conditioning (HVAC) system. It has become severely rusted and deteriorated due to exposure to salt air. This has resulted in both impaired mechanical operation, and in serious roof leaks beneath the unit.

Discussion

Eleven bids were received on January 20, 2009 with bids ranging from \$67,775 to \$93,220. The Engineer's Estimate and the bid totals for the lowest three bids received are summarized as follows:

Bidder	Total Bid	Remarks
1. Carrier Commercial Services	\$69,775.00	Responsible bidder
2. Bel Air Mechanical	\$79,826.66	Responsible bidder
3. Trimline HVAC	\$79,845.00	Responsible bidder
ENGINEER'S ESTIMATE	\$86,890.00	

The lowest responsible bidder, Carrier Commercial Services of San Leandro, California, has been in business since 1978. This bidder holds the specified Class C20 contractor's license, which is current and in good standing.

The second lowest responsible bidder, Bel Air Mechanical of Concord, California, has been in business since 2004. This bidder holds the specified Class C20 contractor's license which is current and in good standing.

Bel Air Mechanical had filed a bid protest against Carrier Commercial Services. The City Attorney has reviewed the Bel Air Mechanical bid protest and has rejected it. A copy of the City Attorney's letter to responding to the Bel Air Mechanical bid protest is attached for reference.

Schedule

The replacement of the 40 ton unit would be scheduled to begin no later than June, depending on equipment procurement, and be completed in August 2009.

Fiscal Impact

The construction cost for the Base Bid, including 10% contingency and construction inspection is estimated at \$83,000. It is requested that the funding be appropriated from the Civic Center fund.

Summary/Conclusion

Staff recommends that the City Council award a construction contract for the subject project to Carrier Commercial Services of San Leandro, California, in the amount of \$69,775 and approve the transfer of \$83,000 from the Civic Center fund to finance this project.

Staff is available to provide any additional information desired by the Mayor or City Council Members.

Respectfully submitted,



John L. Fuller
Director of Public Works

Attachment: City Attorney's Letter to Bel Air Mechanical
RG/dc

cc: City Clerk
City Manager
City Attorney
Director of Economic and Community Development



CITY OF DALY CITY

333-90TH STREET

DALY CITY, CA 94015-1895

PHONE: (650) 991-8000

January 27, 2008

Bruce Campbell
President
Bel Air Mechanical Air Conditioning
1717 Solano Way #40
Concord, CA 94520

Via Certified Mail

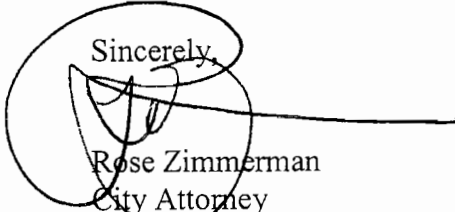
Re: Project "40 Ton Rooftop VAV Unit Replacement for the Civic Center North"
Bid Protest

Dear Mr. Campbell,

Our office is receipt of your bid protest dated January 20, 2008 for the above project.

Based on the reasons stated in your notification and further review by the Department of Public Works, the City will reject the bid protest and recommend award to the lowest responsible bidder to the City Council. Your protest is acknowledged and will be reported to the City Council.

Thank you.

Sincerely,

Rose Zimmerman
City Attorney
City of Daly City

cc: Acting City Engineer
Director of Public Works



City Council Agenda Report

Item # _____

Meeting Date: February 9, 2009

**Subject: ALCOHOL BEVERAGE CONTROL LICENSE FOR GROCERY STORE
108 LOS OLIVOS AVENUE**

RECOMMENDED ACTION

Consider a finding that the public convenience and necessity justifies overruling a denial of a liquor license by the Alcohol Beverage Control Department (ABC).

BACKGROUND

The owner of Bart Grocery, located at 108 Los Olivos Avenue, applied for a Type-20 off sale license to sell beer and wine for consumption off the premises where sold. The application requires review by the local jurisdiction, the City of Daly City, due to an over concentration of off-sale permits within the census tract and because of its location in a high crime reporting district.

The existing site has been occupied by a grocery store since 1955. Previously, a Type-21 license (sale of beer, wine, and distilled spirits for off-site consumption) was active at the site, but lapsed due to non-activity related to an extensive remodeling of the building. The exterior remodel of the building was reviewed and approved by a Design Review Committee on February 11, 2008.

Pursuant to provisions of State Law, Chung Yong Lee, owner of the subject business, has submitted an application requesting the City Council make a finding that the sale of alcoholic beverages from this location would serve a public convenience and necessity.

DISCUSSION

Staff has prepared the following list of facts that the City Council may find useful in determining whether issuance of ABC license for this business will serve the public convenience and necessity.

1. Bart Grocery has applied for a Type 20 license. This license allows for the sale of beer and wine for consumption off the premises where sold.
2. State law requires that the ABC require local jurisdiction approval for applications at locations that are located in areas that statutorily contain an over-concentration of establishments selling alcoholic beverages or are in a crime reporting district that has a higher than average number of offenses. To be considered for approval by ABC, the applicant must request the local jurisdiction make a finding that the approval of a liquor license would serve the public convenience and be a necessity. Absence of such a finding will result in the denial of the license by ABC.

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ALCOHOL BEVERAGE CONTROL LICENSE
February 9, 2009
Page 2 of 4

3. The ABC uses United States Census data to evaluate over-concentration. The formula establishes one off-sale establishment for each 1,597 residents residing in the Census Tract as the threshold for over-concentration.
4. Bart Grocery is located in Census Tract 6007, which has a population of 7,843 persons (based on 2000 U.S. Census Data). The age breakdown for the 2000 census indicates that 71% of the population in this census tract are over the age of 21 years. The boundaries of Census Tract 6007 are I-280 to the west, Crocker Avenue and Wellington Avenue to the east, North Parkview Avenue to the south, and the Daly City-San Francisco border to the north.
5. Using the State's formula, only five establishments within this tract would be permitted to sell alcoholic beverages for off-site consumption. There are currently seven such establishments within the tract.
6. The site is located in Crime Reporting District 4, which is bounded by Junipero Serra Boulevard to the west, the City border to the north, Mission Street to the east, and School Street to the south. That district has had a total of 1,360 offenses within a year when the average for the City is 636 per district.
7. There have been a total of seven calls for police service to 108 Los Olivos Avenue since January 1, 2006 and were primarily calls regarding alarms and graffiti.
8. Bart Grocery is situated on the corner of Los Olivos Avenue and Santa Barbara Avenue. The legal non-conforming grocery store use is located in a R-3 Multiple-family residential zone and situated in a predominantly residential neighborhood. The tract is primarily residential.
9. Most establishments selling alcoholic beverages within Census Tract 6007 are located on Mission Street or Pacific Plaza (See Attachment B – Existing Licenses).
10. The existing site has been occupied by a grocery store since 1955. Previously, a Type-21 license (sale of beer, wine, and distilled spirits for off-site consumption) was issued for the site, but lapsed due to non-activity related to an extensive remodeling of the building. The exterior remodel of the building was reviewed and approved by a Design Review Committee on February 11, 2008.
11. Staff has identified uses within 1,800 feet of Bart Grocery that specifically attract and/or serve youth and are identified on Attachment A, a map of the area.

Woodrow Wilson Elementary School. Located on Miriam Street, 800 feet

Our Lady of Perpetual Help. Located on Wellington Avenue, 1,000 feet

War Memorial. Located on Mission Street, 1,500 feet

John Daly Tot Lot, Located on Santa Barbara Avenue, 700 feet

12. The following is a list of existing alcohol establishments in Census Tract 6007, and are also identified on Attachment B. Classifications are those used by the ABC.

Type 20 Retail establishments selling beer and wine only for consumption off-premises:

S&P Mini Mart, 6065 Mission Street

Top of the Hill Mini Market, 6300 Mission Street

Felix Grocery Store, 6147 Mission Street

New Philippine Grocery, 6157 Mission Street

Type 21 Retail establishments selling all types of alcoholic beverages for consumption off-premises:

Crocker Grocery, 98 Crocker Avenue

Bread and Butter Market, 6001 Mission Street

Greek Imports, 6524 Mission Street

Type 40 Restaurants selling beer only

Aurora's Restaurant, 6185 Mission Street

Little Hunan Restaurant, 6127 Mission Street

Type 41 Restaurant selling beer and wine for consumption on-site:

Round Table Pizza, 6222 Mission Street

IJK Restaurant, 6005 Mission Street

Café Durango, 6286 Mission Street

Pacific Restaurant, 6356 Mission Street

Round Table Pizza, 1901 Junipero Serra Boulevard

Tao Yin, 6288 Mission Street

MC Skewers, 1901 Junipero Serra Boulevard

Type 47 Restaurant selling all types of alcoholic beverages for consumption on-site:

Thai Power Restaurant, 6057 Mission Street

Celebrity Ballroom, 22 Hillcrest Drive

Kenkoy's, 6192 Mission Street

Type 48 Nightclubs selling all types of alcoholic beverages for consumption on-site:

The Annex Bar, 6282 Mission Street

Summary

The City Council may desire to:

1. Deny the request that public convenience and necessity warrant the licensing of Crocker Grocery to sell liquor or;
2. Find that persons living in Census Tract 6007 are not adequately served by the existing alcoholic beverage sales outlets and that the public convenience and necessity would be served by the issuance of a license for the sale of beer and wine by Bart Grocery.

Respectfully submitted,



Tatum Mothershead
Planning Manager

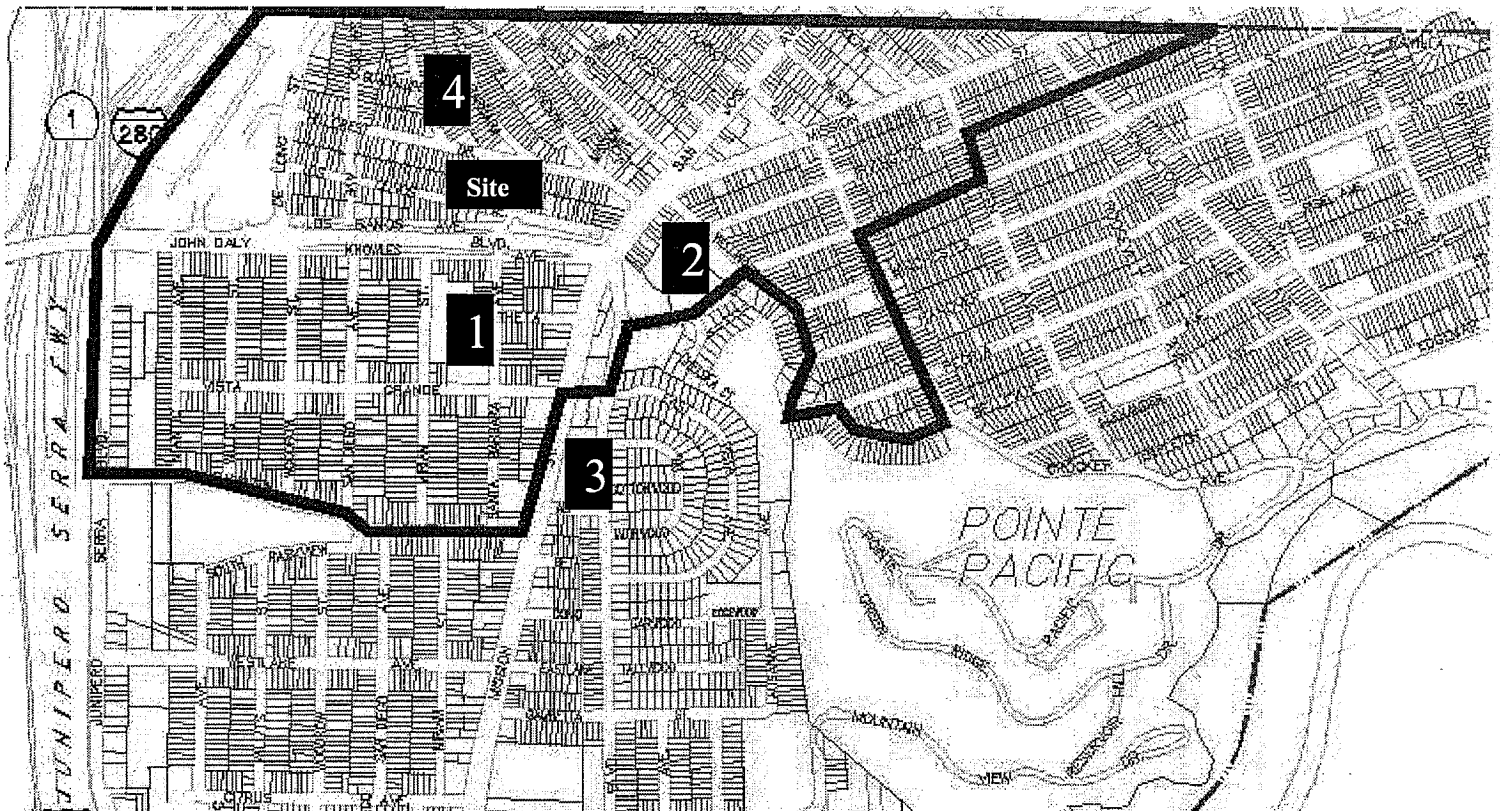
Attachments

Attachment A – Facilities Serving Youth

Attachment B – ABC Licenses in Census Tract 6007

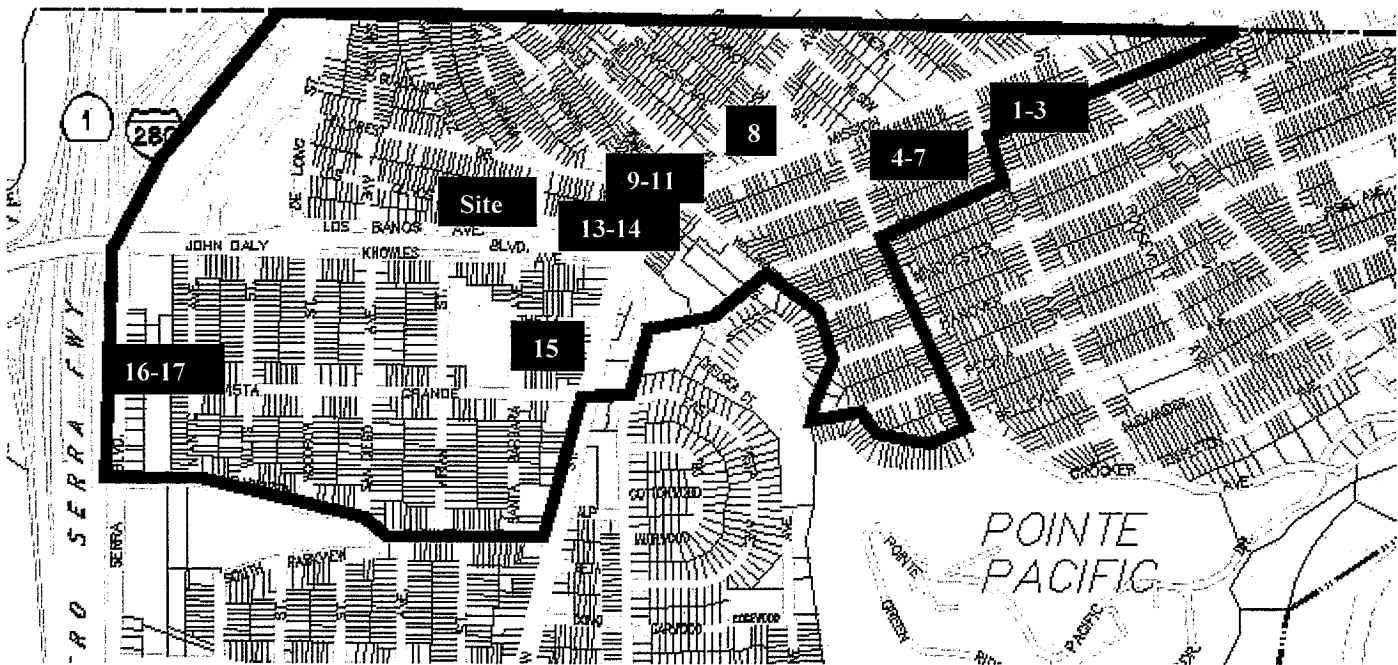
Facilities Serving Youth – Census Tract 6007

1. Woodrow Wilson Elementary School
2. Our Lady of Perpetual Help
3. War Memorial Community Center
4. John Daly Tot Lot



ABC Licenses for Census Tract 6007

1. Bread and Butter Market, 6001 Mission Street
2. S&P Mini Mart, 6065 Mission Street
3. IJK Restaurant, 6005 Mission Street
4. Little Hunan Restaurant, 6127 Mission Street
5. Felix Grocery Store, 6147 Mission Street
6. New Philippine Grocery, 6157 Mission Street
7. Aurora's Restaurant, 6185 Mission Street
8. Round Table Pizza, 6222 Mission Street
9. The Annex Bar, 6282 Mission Street
10. Tao Yin, 6288 Mission Street
11. Café Durango, 6286 Mission Street
12. Crocker Grocery, 98 Crocker Avenue
13. Top of the Hill Mini Market, 6300 Mission Street
14. Pacific Restaurant, 6356 Mission Street
15. Greek Imports, 6524 Mission Street
16. Round Table Pizza, 1901 Junipero Serra Boulevard
17. MC Skewers, 1901 Junipero Serra Boulevard





City Council Agenda Report

Item # _____

Meeting Date: January 12, 2009

Subject: Amending Section 13.08.060 Payment Of Accounts – Failure To Pay And Section 13.08.080 Charges For Turning On Service, Of The Daly City Municipal Code and Adopting Related Penalties

Recommended Action

Amend Sections 13.08.060 and 13.08.080 of the Daly City Municipal Code to allow revision of fines and fees for Failure to Pay and Turn-on Services shown in the attached, and adopt by resolution the revised schedule of Water Late Payment Penalties as shown below.

Discussion

Over the last several years the number of delinquent payments has grown to such an extent that it is adversely affecting the time staff in both Utility Billing and Water Operations have available to perform their normal duties. While the water charges do ultimately get paid by the customer, the amount of staff time to track late payments, issue door note shut-off notices and turn off and then turn on the service has continued to increase. Without some additional motivation to pay on time this increase is likely to continue.

At this point Utility Billing is sending as many as 250 late payment notices each week, followed by up to 150 shut-off notices that are hand delivered, and then performs another 60 actual shut-offs. Water must then be turned back on, often done in the evenings by Water Operations. Throughout this process customers are encouraged to call us to arrange for payment options. When the customer does make contact with us the late payment process is suspended as long as the customer is demonstrating a good faith effort to pay the bill.

Currently the only penalty in place is \$15.00 for the turn-on/turn-off process. This is clearly no longer enough incentive to encourage on-time payment. The billing time line and recommended penalties are as follows. Penalties are cumulative.

	<u>Day</u>	<u>Existing Penalty</u>	<u>Recommended Penalty</u>	<u>Cumulative Penalty</u>
First Bill	1	\$0	\$0	\$0
Reminder Bill	+21 Days	\$0	\$0	\$0
Shut-Off Notice	+35 Days	\$0	\$25.00	\$25.00
Turn-Off/Turn-On	+38 Days	\$15.00	\$50.00	\$75.00
Turn-On After Hours (If requested)		\$0	\$25.00	\$100.00

The intent in raising the penalties is not to collect more revenue, but to simply encourage payment on time. This will allow staff to concentrate on providing service to customers in other areas such as water conservation and leak detection instead of spending more and more time on collection activities. Since virtually all customers do finally pay their utility bill this should only affect the

City Council Agenda Report
Subject: Meeting Date: January 12, 2009
Page 2 of 2

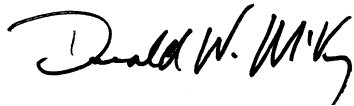
timing of their payments and result in better utilization of our time in providing service to our customers.

Fiscal Impact

The ultimate impact on revenue is expected to be minimal, but savings of staff time is anticipated to be in the hundreds of hours per year.

Staff is available to provide any additional information desired by the Mayor or City Council Members.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Donald W. McVey". The signature is fluid and cursive, with the first name "Donald" being the most prominent.

Donald W. McVey
Director of Finance and
Administrative Services

cc: City Manager
City Attorney
City Clerk
Water and Wastewater Resources

Proposed Amendments to Section 13.08.060 Payment Of Accounts – Failure To Pay And Section 13.08.080 Charges For Turning On Service, Of The Daly City Municipal Code

13.08.060 Payment of accounts—Failure to pay.

All accounts shall be due and payable thirty days after mailing of the statement to each customer. Upon failure to pay said account within the aforementioned thirty-day period, the director of finance shall be authorized to do any one or more of the following:

A. Disconnect water service to any water customer and/or apply late payment charges and/or penalties in amounts as set by resolution of the City Council. B. Declare said account to be delinquent, which delinquent account shall earn interest at the rate as set by resolution of the City Council.

In the event that a check which has been received in payment of an account is returned by any bank, in addition to any of the foregoing, the director of finance shall be authorized to provide for a charge, as set by resolution of the city council, on each returned check.

13.08.070 Installation fee.

The water installation fees shall be as adopted by resolution of the city council, after hearing. A copy of said resolution shall be kept on file in the office of the city clerk and the finance department of the city for further particulars. (Ord. 883 § 8, 1978: prior code § 29-35)

13.08.080 Charges for turning on service.

No charge shall be made for turning on water service for new accounts between eight a.m. and four p.m., Monday through Friday (except holidays). A charge, as set by resolution of the City Council, shall be made for turning on water service for new accounts between four p.m. and eight a.m., Monday through Friday. (Ord. 778 § 4, 1974: prior code § 29-11).

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DALY CITY
REPEALING AND REPLACING CERTAIN SECTIONS OF CHAPTER 13.08 OF
THE MUNICIPAL CODE RE: WATER SERVICE RATES

The City Council of the City of Daly City, DOES ORDAIN as follows:

SECTION 1. Section 13.08.060 of the Municipal Code is hereby repealed.

SECTION 2. Sections 13.08.060 of the Municipal Code is hereafter added to read as follows:

13.080.060 Payment of Accounts – Failure to Pay

All accounts shall be due and payable thirty days after mailing of the statement to each customer. Upon failure to pay said account within the aforementioned thirty-day period, the director of finance shall be authorized to do any one or more of the following:

A. Disconnect water service to any water customer and/or apply late payment charges and/or penalties in amounts as set by resolution of the City Council.

B. Declare said account to be delinquent, which delinquent account shall earn interest at the rate as set by resolution of the City Council.

In the event that a check which has been received in payment of an account is returned by any bank, in addition to any of the foregoing, the director of finance shall be authorized to provide for a charge set by resolution of the city council, on each returned check.

SECTION 3. Section 13.080.080 of the Municipal Code is hereby repealed.

SECTION 4. Section 13.080.080 of the Municipal Code is hereafter added to read as follows:

13.080.080 Charges for turning on service

No charge shall be made for turning on water service for new accounts between eight a.m. and four p.m., Monday through Friday (except holidays). A charge, as set by resolution of the City Council shall be made for turning on water service for new accounts between four p.m. and eight a.m., Monday through Friday.

SECTION 5. Environmental Determination.

The City Council of the City of Daly City finds and determines that the implementation of measures described in this Chapter is in furtherance police powers of the City of Daly City, and that these purposes are exempt from the provisions of the California Environmental Quality Act (CEQA); Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code, as provided in categorical exemption Classes 1, 4, 5, 7, 8, 9, and or 21 of the CEQA Guidelines (Title 14, *California Code of Regulations*, Sections 15301-15329).

SECTION 6. Effective Date and Publication: This Ordinance shall be in full force and effect thirty (30) days from and after its passage. This Ordinance shall be published according to law.

SECTION 7. Severability: If any section, subsection or sentence of this Ordinance is found by a court of competent jurisdiction to be invalid or unlawful, the City Council finds and declares that the remainder of this ordinance would be and is enforceable and would have been adopted notwithstanding the finding of invalidity as to any section, subsection or sentence.

Introduced this 26th day of January, 2009.

Passed and adopted as an Ordinance of the City of Daly City at a regular meeting of the City Council of the City of Daly City held on the _____ day of _____, 2009, by the following vote:

AYES, Councilmembers: _____

NOES, Councilmembers: _____

Absent, Councilmembers: _____

CITY CLERK OF THE CITY OF DALY CITY

APPROVED:

MAYOR OF THE CITY OF DALY CITY