

CITY OF PASADENA
City Council Minutes
April 30, 2007 – 5:30 P.M.
City Hall Council Chamber

REGULAR MEETING

OPENING:

Mayor Bogaard called the regular meeting to order at 5:30 p.m.
(Absent: Councilmember Gordo)

The Council participated in a technology training session.

On order of the Mayor, the regular meeting recessed at 5:50 p.m., to discuss the following closed sessions:

CITY COUNCIL CONFERENCE WITH LABOR NEGOTIATORS pursuant to Government Code Section 54957.6

**City Representatives: Karyn S. Ezell and Arthur Chavez
Employee Organization: Unrepresented Sworn Police Management Employees**

CITY COUNCIL CONFERENCE WITH LEGAL COUNSEL to discuss pending litigation pursuant to Government Code Section 54956.9(a)

**Name of Case: Vargas, et al. v. City of Pasadena
Case No.: Los Angeles Superior Court Case No. GC034767**

CITY COUNCIL CONFERENCE WITH LEGAL COUNSEL to discuss pending litigation pursuant to Government Code Section 54956.9(a)

**Case Name: City of Pasadena v. Hakopyan, et al.
Case No.: Los Angeles Superior Court Case No. GC038367**

The above three closed session items were discussed, with no reportable action at this time.

On order of the Mayor, the regular meeting reconvened at 6:45 p.m. The colors were presented by the Pasadena Police/Fire Guard. The Pledge of Allegiance was led by Steve Wright, Project Manager for the City Hall Seismic Retrofit Project.

ROLL CALL:

Councilmembers:

Mayor Bill Bogaard
Vice Mayor Steve Madison
Councilmember Victor Gordo (Absent)
Councilmember Steve Haderlein
Councilmember Chris Holden
Councilmember Paul Little
Councilmember Joyce Streater
Councilmember Sidney F. Tyler

Staff:

City Manager Cynthia Kurtz
City Attorney Michele Beal Bagneris
City Clerk Jane L. Rodriguez

CEREMONIAL MATTERS

CEREMONIES FOR THE RETURN TO CITY HALL COUNCIL CHAMBER

The Mayor announced that the City Hall Seismic Retrofit Project was completed and the Council meetings would again be held in the Council Chamber.

Martin Pastucha, Director of Public Works Department, recognized the efforts of the City Council, City Manager, City departments, City Hall Restoration Oversight Committee, community members, and others who had contributed to the planning and completion of the City Hall Seismic Retrofit Project. Mr. Pastucha unveiled a dedication plaque presented in honor of the work performed by the City Hall Restoration Oversight Committee and those who had assisted with the project.

The Mayor expressed his admiration for the City Manager's leadership on the project.

Councilmembers Haderlein, Streater, and Little expressed gratitude to all those persons who had contributed to the project.

PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA

Inez Yslas, Pasadena Latino Forum representative, expressed concerns regarding the Operation Safe City program, the alleged targeting of residents in Northwest Pasadena by this program, and racial profiling; and submitted a letter with actions that the Forum would like Council to take on this program.

Elliot Gold, American Civil Liberties Union (ACLU) representative, expressed concerns regarding racial profiling, and asked that data provided by the Police Department on the Operation Safe City program (contacts, tickets, arrests, and impounds) be discussed in a community forum to be held on this issue.

Paul Gedigian, Pasadena resident, alleged that the City has paid for the land that the 210 Freeway was built on, but has never received a transfer of title from the AT & SF Railroad for the property; and urged the City to pursue this matter.

The Mayor indicated staff will look into the matter and respond to Mr. Gedigian.

Patrick Owens, International Brotherhood of Electrical Workers/National Electrical Contractors Association (IBEW/NECA) representative, expressed the IBEW, Local

No. 11's protest of a possible future contract award to Manuel Bros. Inc. that appears to be a non-responsive bid on a traffic control and monitoring federal aid project, and submitted a letter that was sent to Robert Gardner (Public Works Department) with the Union's concerns.

Councilmember Haderlein was excused at 7:16 p.m.

Kim Craft, IBEW, Local No. 11 representative, expressed concerns regarding the need for the City to follow an electrical safety policy when dealing with contractors on City projects; and submitted a memorandum dated April 16, 2007 from Walter Bradley, Assistant Director, Bureau of Contract Administration to All Bureau Personnel.

The City Manager indicated staff was gathering additional information regarding the Manuel Bros. Inc. bid and working with IBEW on the issues, and that this matter would not be brought to Council until the issues were addressed with IBEW.

Fred Mazie, Altadena resident, expressed concerns regarding an incident involving alleged police harassment of teenagers at Victory Park, and asked Council to reexamine the search and seizure policies being used by the Police Department.

CONSENT CALENDAR

RESOLUTIONS APPROVING PROGRAM SUPPLEMENT AGREEMENT NOS. 074-N AND 075-N TO ADMINISTERING AGENCY-STATE AGREEMENT NO. 07-5064R FOR PARKVIEW AVENUE AND ROSE BOWL DRIVE STORM DRAIN DAMAGE REPAIRS

Recommendation of City Manager:

(1) Adopt a resolution approving Program Supplement Agreement No. 074-N for Parkview Avenue to Administering Agency-State Agreement No. 07-5064R between the City of Pasadena and the State of California, acting through the California Department of Transportation (Caltrans), and authorizing the City Manager to execute the same on behalf of the City.

(2) Adopt a resolution approving Program Supplement Agreement No. 075-N for Rose Bowl Drive to Administering Agency-State Agreement No. 07-5064R between the City of Pasadena and the State of California, acting through Caltrans, and authorizing the City Manager to execute the same on behalf of the City. (Resolution Nos. 8732 and 8733)

CONTRACT AWARD TO CALIFORNIA ENGINEERING AND CONTRACTING, INC., FOR THE INSTALLATION OF STREET LIGHTING ON ESTADO STREET FROM AVOCADO LANE TO SANTA PAULA AVENUE AND OTHER LOCATIONS FOR THE AMOUNT NOT TO EXCEED \$92,400

Recommendation of City Manager:

(1) Accept the bid dated April 18, 2007, submitted by California Engineering and Contracting, Inc., in response to the Specifications for the Installation of Street Lighting on Estado

Street from Avocado Lane to Santa Paula Avenue and Other Locations; reject all other bids received; and authorize the City Manager to enter into such contract as is required.

(2) Acknowledge the project to be categorically exempt under Section 21084 of the California Environmental Quality Act (CEQA) in accordance with Article 19, Section 15301 (Class 1), subsection (c) of the Resources Agency of California Guidelines (minor alterations involving negligible expansion of use beyond that previously existing) pursuant to the findings of the Secretary of the Resources Agency, and authorize the City Manager to execute, and the City Clerk to file, a Notice of Exemption for the project with the Los Angeles County Clerk. (Contract No. 19,351)

RESOLUTION TO CONSIDER GRANTING NON-EXCLUSIVE SOLID WASTE FRANCHISES AND SETTING A PUBLIC HEARING

Recommendation of City Manager:

(1) Adopt a resolution declaring its intention to consider the granting of four non-exclusive franchises;

(2) Set a public hearing for June 11, 2007, at 7:30 p.m. to consider granting these franchises; and

(3) Direct the City Clerk to publish the resolution at least once in a newspaper of general circulation in the City not less than ten days prior to the date set for the hearing. (Resolution No. 8734)

Item discussed separately at the request of Vice Mayor Madison.

ISSUANCE OF A PURCHASE ORDER FOR PORTABLE RADIOS TO THE MOTOROLA CORP., IN AN AMOUNT NOT TO EXCEED \$199,940 FOR THE POLICE DEPARTMENT

PURCHASE OF P-25 COMPLIANT COMPREHENSIVE RADIO SYSTEMS FOR THE POLICE HELICOPTERS

Recommendation of City Manager:

(1) Authorize the issuance of a purchase order to AirComm Airborne Audio Products not to exceed \$259,549 for the purchase and installation of four (4) Technisonic TDFM 7000 radio systems in the police helicopters; and

(2) Grant the proposed purchase order an exemption from competitive bidding pursuant to City Charter Section 1002(H), contracts with other governmental entities or their contractors.

AUTHORIZATION TO ENTER INTO A CONTRACT WITH ED AW, INC., TO PROVIDE PROFESSIONAL CONSULTING SERVICES IN PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE LAS ENCINAS MASTER DEVELOPMENT PLAN AMENDMENT

Recommendation of City Manager: Authorize the City Manager to execute a contract with ED AW, Inc., for an amount not to exceed \$160,000, in the preparation of an EIR for the Las Encinas Master Development Plan Amendment. Competitive bidding is not required pursuant to City Charter

Section 1002(F) for contracts for professional or unique services. (Contract No. 19,352)

AUTHORIZATION TO INCREASE THE ANNUAL NOT-TO-EXCEED AMOUNTS FOR CONTRACT NUMBERS 18,663 WITH POUK AND STEINLE AND 18,664 WITH PAR ELECTRICAL CONTRACTOR, INC., TO PERFORM CAPITAL IMPROVEMENT PROJECTS

Recommendation of City Manager:

(1) Authorize an amendment to Contract No. 18,663 with Pouk and Steinle, increasing the total not to exceed amount from \$8,000,000 to \$12,000,000.

(2) Authorize an amendment to Contract No. 18,664 with PAR Electrical Contractor, Inc., (PAR), increasing the total not to exceed amount from \$2,075,000 to \$3,500,000. (Contract Amendment Nos. 18,663-1 and 18,664-1)

MINUTES APPROVED

February 26, 2007
March 5, 2007

CLAIMS RECEIVED AND FILED

Claim No. 10,343	Maureen Huckler	\$ 182.98
Claim No. 10,344	Finola Campbell and Gary Bailey	500.00
Claim No. 10,345	Gevorg Kasabian	1,310.37
Claim No. 10,346	Sabrina Hammond	3,300.00
Claim No. 10,347	Michael M. Ingledew	2,420.30
Claim No. 10,348	Jeffrey Osman	931.50
Claim No. 10,349	Infinity Insurance as subrogee for Jose Gomez	3,064.06
Claim No. 10,350	Stephanie Neukom	200.00

PUBLIC HEARING SET

May 21, 2007, 7:30 p.m. – Approval of Reuse Plan for the Desiderio Army Reserve Center for Submittal to Federal Authorities

It was moved by Councilmember Little, seconded by Councilmember Streator, to approve the Consent Calendar, with the exception of Item 4 (Purchase Order to Motorola Corp.), which was discussed separately. (Motion unanimously carried) (Absent: Councilmembers Gordo, Haderlein)

CONSENT ITEM DISCUSSED SEPARATELY

Vice Mayor Madison was excused at 7:20 p.m., due to a conflict of interest.

ISSUANCE OF A PURCHASE ORDER FOR PORTABLE RADIOS TO THE MOTOROLA CORP., IN AN AMOUNT NOT TO EXCEED \$199,940 FOR THE POLICE DEPARTMENT

Recommendation of City Manager:

(1) Authorize the issuance of a purchase order to the Motorola Corp., in a total amount not to exceed \$199,940 for the purchase of 41 digital portable radios; and

(2) Grant the proposed purchase order an exemption from competitive bidding pursuant to City Charter Section 1002(C), contracts for labor, materials, supplies, or services available from only one vendor.

It was moved by Councilmember Streator, seconded by Councilmember Tyler, to approve the City Manager's recommendation. (Motion unanimously carried) (Absent: Councilmembers Gordo, Haderlein, Vice Mayor Madison)

**REPORTS AND COMMENTS
FROM COUNCIL
COMMITTEES**

FINANCE COMMITTEE

CITY HALL SEISMIC RETROFIT PROJECT – APPROVAL OF CONTINGENCY ADJUSTMENTS AND CHANGE ORDER NO. 11 TO THE GENERAL CONTRACTOR AND AWARD A PURCHASE ORDER CONTRACT TO KIMBALL INTERNATIONAL MARKETING, INC., FOR FURNISH, DELIVERY, ASSEMBLY AND INSTALLATION OF OFFICE AND CONFERENCE ROOM FURNITURE FOR THE PASADENA CITY HALL PROJECT, FOR AN AMOUNT NOT TO EXCEED \$680,000

Recommendation of City Manager:

- (1) Approve the allocation of \$426,517 from Project Contingency for unforeseen conditions and project activities, as identified in Attachment No. 1 of the agenda report, that were discovered during the retrofit of City Hall, thereby reducing the amount of Project Contingency from \$4,586,828 to \$4,160,311;
- (2) Authorize the City Manager to execute Change Order No. 11 to Contract No. 18,768-1 with Clark Construction Group-California, LP (Clark Construction) for increases in scope of work due to unforeseen conditions discovered during the retrofit of City Hall, as identified in Attachment No. 1 of the agenda report, thereby increasing the contract amount by \$355,775 from \$82,861,084 to \$83,216,859;
- (3) Recognize \$609,258 in previously unappropriated investment earnings from the 2006 Rose Bowl/City Hall Certificates of Participation in the City Hall Seismic Upgrade and Exterior Restoration Project No. 71904 and transfer a like amount to the non-departmental portion of the Fiscal Year 2007 General Fund Operating Budget;
- (4) Authorize the issuance of a purchase order to Kimball International Marketing Inc., to furnish, deliver, assemble, and install office and conference room furniture for the Pasadena City Hall Project; and authorize the City Manager to enter into a purchase order contract not to exceed \$680,000. The proposed purchase is exempt from competitive bidding pursuant to City Charter Section 1002(H), contracts with other governmental entities or their contractors for labor, materials, supplies or services. (Journal Voucher No. 2007-28)

Recommendation of City Hall Restoration Oversight Committee: On April 11, 2007, the City Hall Restoration Oversight Committee reviewed the topics of contingency adjustments, General Contractor Change Order No. 11 and allocations for new office furniture for some of the City Hall spaces and recommended the following:

The Committee concurred that the recommendations under Change Order No. 11 are reasonable and consistent with ongoing construction activities of similar projects. The Committee also concurred with the allocations associated with

the purchase of new furniture for various offices and conferences rooms in City Hall. Thus, it was recommended that the City Council authorize the allocation of \$426,517 from Project Contingency, which includes an increase to Contract No. 18,768-1 with Clark Construction by \$355,775, and the allocation of \$680,000 toward the purchase of new furniture for various offices and conference rooms in City Hall.

Councilmember Little, Chair of the Finance Committee, summarized the agenda report.

It was moved by Councilmember Little, seconded by Councilmember Tyler, to approve the City Manager's recommendation. (Motion unanimously carried) (Absent: Councilmembers Gordo, Haderlein, Vice Mayor Madison)

Vice Mayor Madison returned at 7:25 p.m.

CITY HALL SEISMIC RETROFIT PROJECT – QUARTERLY UPDATE

Recommendation of City Hall Restoration Oversight Committee: This report is for informational purposes only.

Councilmember Little introduced the agenda item.

Dr. Paul Jennings, Chair of the City Hall Restoration Oversight Committee, reviewed the agenda report.

It was moved by Councilmember Little, seconded by Councilmember Tyler, to receive and file the report. (Motion unanimously carried) (Absent: Councilmembers Gordo, Haderlein)

The Mayor and Councilmember Little thanked Dr. Jennings and the City Hall Restoration Oversight Committee for all of their work on the project.

VARIOUS FISCAL YEAR 2007 OPERATING BUDGET AMENDMENTS

Recommendation of City Manager:

(1) Authorize a journal voucher implementing certain amendments to the FY 2007 Operating Budget as detailed in the background section of the agenda report. The net effect of these amendments to the various unappropriated fund balances is as follows: a reduction to the General Fund of \$17,000 and Old Pasadena Parking Fund of \$159,303; in addition \$39,174 in grant funds will be recognized and appropriated in the General Fund.

(2) Authorize an amendment to the General Fee Schedule, related to fire underground storage tank – operating permit and required inspection fees to correct the rate charged from \$490 to \$190 per tank.

(3) Authorize a \$200,000 increase in the annual not to exceed amount of Contract No. 18,934 with Modern Parking, Inc.,

thereby increasing the contract amount from \$4,631,993 to \$4,831,993. (Journal Voucher No. 2007-29; Contract Amendment No. 18,934-2)

Councilmember Little summarized the agenda report.

Phyllis Currie, General Manager of Water and Power Department, responded to questions regarding the agreement terms.

It was moved by Councilmember Little, seconded by Councilmember Tyler, to approve the City Manager's recommendation. (Motion unanimously carried) (Absent: Councilmembers Gordo, Haderlein)

MUNICIPAL SERVICES
COMMITTEE

AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT WITH SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ("SCPPA") FOR A 20-YEAR PREPAID NATURAL GAS SUPPLY AGREEMENT FOR AN AVERAGE OF 2,000 MMBtu PER DAY

Recommendation of City Manager:

(1) Authorize the City Manager to enter into an agreement with Southern California Public Power Authority (SCPPA) for a 20-Year Prepaid Natural Gas Supply Agreement ("Agreement") to deliver an average of 2,000 MMBtu per day.

(2) Adopt a resolution authorizing approval of the Natural Gas Supply Agreement.

(3) Grant the proposed Natural Gas Supply Agreement an exemption from competitive bidding pursuant to City Charter Section 1002(H), contracts with other governmental entities or their contractors for labor, materials, supplies or service. (Agreement No. 19,353; Resolution No. 8735)

Councilmember Tyler, Chair of the Municipal Services Committee, reviewed the agenda report.

It was moved by Councilmember Tyler, seconded by Councilmember Streater, to approve the City Manager's recommendation. (Motion unanimously carried) (Absent: Councilmembers Gordo, Haderlein)

RECOMMENDATIONS FROM OFFICERS AND DEPARTMENTS

AMENDMENT TO THE HAHAMONGNA WATERSHED PARK MASTER PLAN

Recommendation of City Manager:

(1) Approve the amendments to the Goals and Objectives of the Hahamongna Watershed Park Master Plan to reflect the community's vision for the 30-acre Hahamongna Annex property (Exhibit 1 of the agenda report);

(2) Conceptually approve the recommended Proposed Uses and the Concept Plan for the Hahamongna Annex, as shown on Exhibits 2 and 2a of the agenda report;

(3) Conceptually approve the following amendments to the

September 29, 2003 adopted Hahamongna Watershed Park Master Plan:

(a) Eliminate the project entitled "Equestrian Staging Area" with its related road realignment and parking improvements and instead keep this location a group picnic area with an improved park road for safe access for two-way traffic;

(b) Include the addition of the Hahamongna Annex area and its proposed uses;

(c) Revise the Bicycle Route plan to include routing through the Hahamongna Annex.

(4) Direct staff to prepare the necessary plans for final adoption including preparation of the required environmental documents for CEQA compliance and certification.

Recommendation of the Hahamongna Watershed Park Advisory Committee: At their special meeting of April 19, 2007, the Hahamongna Watershed Park Advisory Committee (HWPAC) concurred with staff recommendation and made the following additions:

The Plan should:

(1) Emphasize the vision statement.

(2) Seek to minimize surfacing/paved areas (referencing parcel C2), seek alternative types of surfaces, increase access by public transportation and possibly eliminate east-west roadway.

(3) Commit not to remove/relocate facilities until funding is in place.

(4) Minimize fencing and maximize non-vehicular access.

(5) As a general concept maximize general open space.

(6) Develop management plan for appropriate thresholds of use.

Recommendation of Design Commission: At their regular meeting of April 23, 2007, and after advisory review, the Design Commission concurred with the staff recommendation, with the following additions:

The Plan should:

(1) Carefully consider parking and minimize paving.

(2) Encourage the use of public transportation to access this site, including the design of an attractive transportation shelter to encourage people to stop at that location.

Recommendation of Planning Commission: At their regular meeting of April 25, 2007, the Planning Commission concurred with the staff recommendation, with the following additions:

(1) Eliminate the road proposed on parcel C2.

(2) Agreement with the recommendations made by both the HWPAC and the Design Commission.

Councilmember Haderlein returned at 7:50 p.m.

The Mayor introduced the agenda item.

Rosa Laveaga, Arroyo Seco Project Supervisor, reviewed the agenda report; provided a PowerPoint presentation with information on the proposed recommendations for the

Hahamongna Watershed Park Annex (history of the project, planning process, and proposed uses for areas within the Annex); and responded to questions.

The City Manager clarified that the staff recommendation was in agreement with the advisory bodies' recommendations, with the exception of the staff recommendation regarding the proposed unpaved road in parcel C2; affirmed that the staff recommendation was asking for conceptual approval of the Proposed Uses and the Concept Plan for the Hahamongna Annex and the amendments to the Hahamongna Watershed Park Master Plan; discussed future tenancy in the Annex area; and responded to questions.

Martin Pastucha, Director of Public Works Department, responded to questions regarding the Proposed Uses and the Conceptual Plan for the Annex.

Discussion followed regarding road access through the Annex area, access to the Annex by emergency vehicles, and issues related to the proposed road in parcel C2.

The following persons expressed concerns regarding various components of the Proposed Uses and/or Conceptual Plan for the Annex area:

Donald Rogers, Pasadena Audubon representative
Doug Larner, Pasadena resident
Mary Barrie, La Cañada resident
Priscilla Benson, Altadena resident, submitted a map of the Annex area.
Marietta Kruells, Altadena resident
Don Bremner, Sierra Club-Pasadena representative
Elizabeth Bour, Equestrian Trails Inc. (ETI) and RBR member
Lori Paul, Altadena Foothills Conservancy Board Vice President speaking as an individual
Thomas Lockhart, ETI Corral 2 President

The following persons spoke in support of various components of the Proposed Uses and/or Conceptual Plan for the Annex area:

Dr. Robert Kladifko, Move A Child Higher 1 (MACH 1) representative
Erin Kelly, MACH 1 member
Russell Di Fiori, Pasadena City College (PCC) Instructor, Natural Sciences
Erika Catanese, PCC Instructor, Natural Resources
Connie Flanders, Rose Bowl Riders (RBR) Board member, submitted informational material.
Ariel Sivela Wisch, RBR barn manager

Susie Brown, RBR Vice President
Sue Lafferty, RBR member, submitted an information brochure.
Curt Gibson, Lake Avenue Community Foundation representative
Anita Fromholz, Hahamongna Watershed Park Advisory Committee Chair
Joy Rittenhouse, MACH 1 founder
Chris Von Derahe, MACH 1 member

Discussion continued on the scope of the Environmental Impact Report (EIR) and inclusion of the proposed road in parcel C2 of the Annex.

Councilmember Little suggested the EIR also include a study of parking options in the Annex.

Councilmember Streator commended the volunteers and staff for their long-term commitment to the planning process for this area, and suggested the Concept Plan be approved conceptually with the proposed road in parcel C2 to be included in the EIR study.

Councilmember Haderlein commented on the need to increase public access to the Annex through improved public transit to the area, and asked that information and estimated costs for increased and improved transit access be included in the Concept Plan and in the report that comes back to Council (e.g., transit shelter).

Mr. Pastucha discussed the possible scope of the environmental review process, estimated that the process could be finished in 6-9 months, and noted that estimated costs for the improvements in the Annex would be provided after the environmental impacts are determined.

The Mayor asked that the recommendations of the three advisory bodies as stated above be included in the report that returns to Council for future action so that their recommendations can be a part of the decision-making process at that time.

It was moved by Councilmember Holden, seconded by Vice Mayor Madison, to approve the City Manager's recommendation. (Motion unanimously carried) (Absent: Councilmember Gordo)

Councilmember Streator noted that the City was now providing a Horsemanship 101 class through the Human Services and Recreation programs, and encouraged members of the community to make donations to provide scholarships for the program.

PUBLIC HEARINGS

PUBLIC HEARING: APPROVAL OF THE DEVELOPMENT AGREEMENT FOR THE SMV/A NOISE WITHIN MIXED-USE PROJECT BETWEEN THE CITY OF PASADENA AND SMV TECHNOLOGY PARTNERS LLC

Recommendation of City Manager:

- (1) Concur with findings in the Initial Study that Certify the Mitigated Negative Declaration (Attachment C of the agenda report), and adopt the Mitigation Monitoring Reporting Program (Attachment D of the agenda report);
- (2) Adopt by resolution the Findings that the proposed SMV/A Noise Within mixed-use project is consistent with the Zoning Code and the General Plan;
- (3) Approve the proposed Draft Development Agreement (Attachment A of the agenda report) with modifications to Section 7.01(f) Processing, as described in the agenda report;
- (4) Approve the Expressive Use Permit for the theater use;
- (5) Approve the Conditional Use Permit to allow a non residential project or non residential portion of a mixed-use exceeding 25,000 square feet of gross floor area;
- (6) Approve the Minor Conditional Use Permit to allow a Commercial Project greater than 15,000 square feet located in a transit oriented district;
- (7) Approve the Minor Conditional Use Permit for shared parking;
- (8) Approve a variance to reduce the number of required loading spaces; and
- (9) Approve a Certificate of Exception for a lot line adjustment, all subject to the conditions listed in this report. (Resolution No. 8738)

Recommendation of Planning Commission: The Planning Commission recommended approval of staff's recommendation with the modification to the Development Agreement, as follows:

Under Section 7.01 Processing, delete the following language from item (f): Developer and City agree that if the City has not completed the improvements, then starting eighteen (18) months following receipt of the Roadway Improvement Fee, to the extent that all or portions of the residential development are completed and ready for occupancy, the City will issue one or more temporary Certificates of Occupancy permitting occupancy until the improvements are completed, at which time the final Certificate of Occupancy will be issued. The City agrees that, so long as Developer has paid the Roadway Improvement Fee, a failure to complete the improvements within the described time frame will not prohibit the use and occupancy or any portion of the improvements to the Residential Parcel.

Staff does not concur with the Planning Commission's recommendation. Rather, staff recommends replacing the above section, Section 7.01 (f), with the following: Once the City Council authorizes and awards a contract to begin the Kinneloa/Walnut Street Improvement Project, and to the extent

