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ORD-23

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May 16, 2006

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RECOMMENDATION:

Declare Ordinance to Establish Procedure Pursuant to Section 21151(c) of the California Public Resources Code for Appeals to the City Council from Environmental Determinations by the Board of Harbor Commissioners Read for the First Time and Laid over to the next Regular Meeting of the City Council for Final Reading

DISCUSSION:

In 2002, the California Environmental Quality Act (CEQA) was amended to provide that when an appointed city commission makes a CEQA determination, that determination may be appealed to the city's elected city council. The statute and regulations do not establish a procedure for these appeals but permit each city to establish its own procedure.

In August 2004, the Harbor Commission certified the Environmental Impact Report for Pier J South Terminal Development. This determination was appealed to the City Council. This office and the appellants had extensive discussions about the appropriate procedure for the appeal and the absence of a prescribed procedure created some uncertainty.

The attached ordinance sets down the procedure that was ultimately followed in the Pier J South appeal and clarifies related issues. We recommend that the Council adopt the ordinance to provide guidance to the parties in any future appeals.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

ROBERT E. SHANNON, City Attorney

Enclosure

DTH:rjr #06-01770

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