

1 RESOLUTION NO. 2006-287

2 A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF  
3 SAN BERNARDINO PLACING A GENERAL TRANSACTIONS AND USE TAX, AND AN  
4 ADVISORY QUESTION ON THE BALLOT FOR THE NOVEMBER 7, 2006  
5 CONSOLIDATED SPECIAL MUNICIPAL ELECTION, AND ADVISORY ELECTION.

6 BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE CITY  
7 OF SAN BERNARDINO AS FOLLOWS:

8 WHEREAS, Revenue & Taxation Code Section 7285.9 authorizes the City of San  
9 Bernardino ("City") to levy a general transactions and use tax if the ordinance proposing that tax  
10 is approved by a two-thirds vote of all members of the Mayor and Common Council, and the tax  
11 is approved by a majority vote of the qualified voters of the City voting in an election on the  
12 issue, and

13 WHEREAS, the Mayor and Common Council, by a sufficient vote of its members, adopt  
14 this resolution to propose to the electorate of the City of San Bernardino a Transactions, and Use  
15 Tax Ordinance, which imposes a general transactions and use tax, and, by separate action, will  
16 adopt the tax on condition that it is subsequently approved by the voters, and

17 WHEREAS, the Mayor and Common Council desire to submit the general transactions  
18 and use tax to the voters, and

19 WHEREAS, Elections Code Section 9603 authorizes the Mayor and Common Council to  
20 submit an advisory measure to allow voters to voice their opinions on substantive issues, or to  
21 indicate to the Mayor and Common Council approval of ballot proposals, and

22 WHEREAS, the Mayor and Common Council desire to submit an advisory measure to  
23 the voters of the City to allow the voters to voice their opinions with respect to the use of  
24 proceeds of a general transactions and use tax, if one is imposed, and

25 WHEREAS, by prior resolution, the Mayor and Common Council called a consolidated  
26 special election and advisory election for Tuesday, November 7, 2006, and

27 WHEREAS, the Mayor and Common Council desire to submit the tax measure, and the  
28 advisory measure to the electorate at the consolidated election.

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1 **A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF**  
 2 **SAN BERNARDINO PLACING A GENERAL TRANSACTIONS AND USE TAX, AND AN**  
 3 **ADVISORY QUESTION ON THE BALLOT FOR THE NOVEMBER 7, 2006**  
 4 **CONSOLIDATED SPECIAL MUNICIPAL ELECTION, AND ADVISORY ELECTION.**

5 SECTION 1. The Mayor and Common Council find and determine that each of the  
 6 findings set forth above is true and correct.

7 SECTION 2. The Mayor and Common Council hereby order the following question to  
 8 be submitted to the voters at the advisory municipal election called for Tuesday,  
 9 November 7, 2006:

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|---|-----------------------|--|
| Advisory Vote Only  | For the Ordinance     |  |
| If Measure ____ is approved by the voters, shall the proceeds of Measure ____ be used only to fund more police officers and support personnel, and to fund anti-gang and anti-crime operations, including drug resistance education and supervised after-school youth activities? | Against the Ordinance |  |

10 This question requires the approval of a majority of those casting votes. It is an advisory measure  
 11 only. The City Clerk is hereby authorized to complete the blank in the ballot label set forth above  
 12 with the letter or number assigned to the measure proposed by Section 3 of this resolution.

13 SECTION 3. The Mayor and Common Council hereby order the following question to  
 14 be submitted to the voters at the special municipal election called for Tuesday, November 7, 2006:

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| To fund more police officers, anti-gang and anti-crime operations, and other urgent general fund programs, and provided it shall be guaranteed to sunset after 15 years, and provided a Citizen's Oversight Committee is created to report annually to voters on the use of proceeds, shall an Ordinance be adopted to impose a 1/4 of a cent transaction and use (sales) tax? | For the Ordinance     |  |
|  | Against the Ordinance |  |

15 This question requires approval of a majority of those casting votes and the Ordinance referenced  
 16 therein is Ordinance No. \_\_\_\_ of the City, attached hereto as Exhibit A.

17 SECTION 4. Pursuant to California Elections Code Section 9280, the Mayor and  
 18 Common Council hereby direct the City Clerk to transmit a copy of this Resolution and Exhibit  
 19 A hereto to the City Attorney. The City Attorney shall prepare an impartial analysis of the  
 20 measures, each of which shall not exceed 500 words in length, showing the effect of the measure  
 21 on the existing law and the operation of the measure, and transmit such impartial analysis to the  
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4 **CONSOLIDATED SPECIAL MUNICIPAL ELECTION, AND ADVISORY ELECTION.**

4 City Clerk within ten (10) days of the adoption of this Resolution.

5 **SECTION 5.** The City Clerk shall certify to the passage and adoption of this Resolution  
6 and enter it into the book of original Resolutions.

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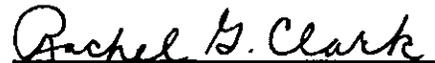
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1           **A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF**  
 2 **SAN BERNARDINO PLACING A GENERAL TRANSACTIONS AND USE TAX, AND AN**  
 3 **ADVISORY QUESTION ON THE BALLOT FOR THE NOVEMBER 7, 2006**  
 4 **CONSOLIDATED SPECIAL MUNICIPAL ELECTION, AND ADVISORY ELECTION.**

4           I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the Mayor and  
 5 Common Council of the City of San Bernardino at a joint regular meeting thereof, held  
 6 on the 8th day of August, 2006, by the following vote, to wit:

| 8 <u>COUNCIL MEMBERS:</u> | <u>AYES</u>  | <u>NAYS</u> | <u>ABSTAIN</u> | <u>ABSENT</u> |
|---------------------------|--------------|-------------|----------------|---------------|
| 9 ESTRADA                 | <u>  X  </u> | <u>    </u> | <u>    </u>    | <u>    </u>   |
| 10 BAXTER                 | <u>  X  </u> | <u>    </u> | <u>    </u>    | <u>    </u>   |
| 11 VACANT                 | <u>    </u>  | <u>    </u> | <u>    </u>    | <u>    </u>   |
| 12 DERRY                  | <u>  X  </u> | <u>    </u> | <u>    </u>    | <u>    </u>   |
| 13 KELLEY                 | <u>    </u>  | <u>    </u> | <u>    </u>    | <u>  X  </u>  |
| 14 JOHNSON                | <u>  X  </u> | <u>    </u> | <u>    </u>    | <u>    </u>   |
| 15 MCCAMMACK              | <u>  X  </u> | <u>    </u> | <u>    </u>    | <u>    </u>   |

17   
 18 Rachel G. Clark, City Clerk

19 The foregoing Resolution is hereby approved this 9<sup>TH</sup> day of August, 2006.

21   
 22 Patrick J. Morris, Mayor  
 City of San Bernardino

23 Approved as to Form:  
 24 Michael G. Colantuono, Special Counsel

26  
 27 By:  8/7/06





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**RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF  
SAN BERNARDINO APPROPRIATING ANY PROCEEDS OF A GENERAL  
TRANSACTIONS AND USE TAX**

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the Mayor and  
Common Council of the City of San Bernardino at a joint regular meeting thereof, held  
on the 8th day of August, 2006, by the following vote, to wit:

| <u>COUNCIL MEMBERS:</u> | <u>AYES</u>   | <u>NAYS</u>   | <u>ABSTAIN</u> | <u>ABSENT</u> |
|-------------------------|---------------|---------------|----------------|---------------|
| ESTRADA                 | <u>X</u>      | <u>      </u> | <u>      </u>  | <u>      </u> |
| BAXTER                  | <u>X</u>      | <u>      </u> | <u>      </u>  | <u>      </u> |
| VACANT                  | <u>      </u> | <u>      </u> | <u>      </u>  | <u>      </u> |
| DERRY                   | <u>X</u>      | <u>      </u> | <u>      </u>  | <u>      </u> |
| KELLY                   | <u>      </u> | <u>      </u> | <u>      </u>  | <u>X</u>      |
| JOHNSON                 | <u>X</u>      | <u>      </u> | <u>      </u>  | <u>      </u> |
| MC CAMMACK              | <u>X</u>      | <u>      </u> | <u>      </u>  | <u>      </u> |

*Rachel G. Clark*  
Rachel Clark, City Clerk

The foregoing Resolution is hereby approved this 9<sup>TH</sup> day of August, 2006.

*Patrick J. Morris*  
PATRICK J. MORRIS, Mayor  
City of San Bernardino

Approved as to form:  
Michael G. Colantuono, Special Counsel

By: *[Signature]* 8/7/06

**Exhibit A**  
**Appropriation of General Transactions and Use Tax**

Revenues:

Anticipated revenues for FY 06-07 (assumes tax becomes effective on April 1, 2007): \$1,500,000

Expenditures:

- Five (5) additional police officer (P-1) positions for the Patrol Beat Plan – salary, benefits, and equipment
- One (1) additional police sergeant position for field supervision – salary and benefits
- Seven (7) day per week police helicopter service for 8 months (November – June)
- Overtime for new positions included in the FY 06-07 budget and the additional six (6) positions funded by the general tax, and saturation patrols in identified at-risk corridors
- Three (3) fully-equipped marked police vehicles for the new officers
- One (1) fully-equipped marked sergeant's vehicle
- Increased police officer hiring incentives to accelerate filling of new positions
- Enhanced recruitment, including additional funding for advertising, recruitment outreach, job fairs, and candidate testing/investigations
- Misc. other expenses related to meeting critical public safety needs

Total expenditures for FY 06-07: \$1,500,000

54.A  
8/7/06

# REVENUE AND TAXATION CODE

## SECTION 7285.9-7285.92

7285.9. The governing body of any city may levy, increase, or extend a transactions and use tax for general purposes at a rate of 0.25 percent or a multiple thereof, if the ordinance proposing that tax is approved by a two-thirds vote of all members of that governing body and the tax is approved by a majority vote of the qualified voters of the city voting in an election on the issue. The governing body may levy, increase, or extend more than one transaction and use tax under this section, if the adoption of each tax is in the manner prescribed in this section. The transactions and use tax shall conform to Part 1.6 (commencing with Section 7251).

7285.91. As an alternative to the procedure set forth in Section 7285.9, the governing body of any city may levy, increase, or extend a transactions and use tax for specific purposes. The tax may be levied, increased, or extended at a rate of 0.25 percent, or a multiple thereof, for the purpose for which it is established, if all of the following requirements are met:

(a) The ordinance proposing that tax is approved by a two-thirds vote of all members of the governing body and is subsequently approved by a two-thirds vote of the qualified voters of the city voting in an election on the issue.

(b) The transactions and use tax conforms to the Transactions and Use Tax Law Part 1.6 (commencing with Section 7251).

(c) The ordinance includes an expenditure plan describing the specific projects for which the revenues from the tax may be expended.

7285.92. The authority of a city to impose transactions and use taxes under this chapter is in addition to any authority to impose these taxes contained in Chapters 2.6 (commencing with Section 7286.20) to 2.99 (commencing with Section 7286.80), inclusive, of this part. The authority of a city to impose transactions and use taxes under any provision of law is subject to the rate limitation specified in Section 7251.1.

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## The California Cities Gang Prevention Network

Welcome to the fifth bulletin of the California Cities Gang Prevention Network! In addition to alerting you to a couple of opportunities and providing a brief overview of our inaugural conference, this month we spotlight San Bernardino's allocation of its Measure Z funds. We believe other cities could learn greatly from San Bernardino's difficulties implementing this measure, as well as the passionate community response to the issue.

### OPPORTUNITIES

#### Audioconference on Dropout Recovery – March 22

City efforts to stem the dropout crisis will be the focus of a free, hour-long audioconference on Thursday, March 22, at 2:00 p.m. eastern time, sponsored by NLC's YEF Institute. "Dropout Recovery: What Cities Can Do to Get Students Back on Track" will feature municipal leaders who are working to reconnect high school dropouts to education and support services.

To register for this free call, send complete contact information (name, title, dept./org., address, city, state, phone, fax, and email) to [iyef@nlc.org](mailto:iyef@nlc.org) or via fax to (202) 626-3043 by the end of the day, Tuesday, March 20. No phone registrations will be accepted. One day prior to the call, each registrant will receive an email or fax providing a toll-free, dial-in number.

#### Crime Prevention Grants to Support National & Global Youth Service Day

The National Crime Prevention Council will award grants of up to \$500 each to support service-learning projects planned and implemented by youth who identify needs and create projects to address or prevent crime, violence, and drug abuse in their schools and communities for National & Global Youth Service Day (April 20-22, 2007). These grants are intended to encourage and promote crime prevention, community service, and civic responsibility.

The application deadline is April 1, 2007. Application information can be found at: [www.ncpc.org/programs/tcc/grant.php](http://www.ncpc.org/programs/tcc/grant.php).

### THE INAUGURAL CONFERENCE

The inaugural 13 City Gang Prevention Network Conference, held in Oakland on January 24th and 25th was attended by teams from each of the participating cities, composed of mayors, city council members, police chiefs, and service, community, and faith-based providers. In addition, representatives from The California Wellness Foundation, The California Endowment, The East Bay Community Foundation, The Richmond Children's Fund, and the California Office of the Attorney General were in attendance.

The conference intended to:

- Balance time for intra-city work on city-specific plans with time for inter-city exchange of ideas.
- Provide a glimpse of the salient features of each city's work as well as significant obstacles encountered.
- Maximize development and exchange of ideas.
- Provide the opportunity for funders/supporters to participate and witness the proceedings.
- Begin the formation of a statewide network.
- Develop, refine, and expand upon city strategies.
- Commit to specific actions upon return home.

Panel sessions focused on promising prevention, intervention, and enforcement strategies, as well as lessons learned by cities that had forged a city-wide strategy. Breakout sessions encompassed school-related strategies, working with returning offenders, intervening directly with gangs, supporting at-risk families, reaching children at young ages, and spurring neighborhood-based strategies.

Participant enthusiasm for the conference's structure and results, as expressed in written evaluations, was uniformly high:

"My expectations were high, but I (and my team) was blown away."

"Outstanding initial conference."

"It was great meeting new contacts. A lot of 'thinking outside the box.'"

"Well organized. Fantastic content. Very timely for all of us."

"Great conference and great exchange of information between agencies and within our own team."

"This was the best conference I have attended in recent years."

"Comprehensive and partnered strategies are the only way we can bring the voice of our community to our leadership. Innovative! Creative approaches to violence

reduction and prevention will save our communities. The balance was superb."

Perhaps the most eloquent commentary on the conference's impact and release of energy was the list of actions taken within a week—even within days—following the conference. Some of the actions included adding new members to city teams, discussions with the county, preparations for a "Call-In," and plans to petition city council for the funding of a gang prevention coordinator.

Participants raised several areas for future research and discussion: how to get beyond service provider competition, neighborhood reclamation/community-building strategies, how to track and measure results, how to keep a city-wide coalition vital, how to work with the faith community, and which programs are effective for returning offenders. Work will now focus on data collection and site-specific technical assistance. Representatives from each of the 13 participating cities will meet together in June. Full city teams will meet again either in December, 2007, or January, 2008.

## SAN BERNARDINO

### Measure Z

As was mentioned in our last bulletin, San Bernardino recently passed Measure Z, which effectively raised the city's sales tax a quarter-cent for the next 15 years, for an estimated revenue boost of \$5.6 million annually. The measure passed with 67.1% of the votes in the November 2006 election. A companion bill, Measure YY—setting up a citizen oversight committee for Measure Z and advising that the funds be used to hire officers and police support personnel, as well as fund anti-gang and anti-crime programs—passed with an even greater majority (75.2%).

California law requires a simple majority vote for general fund taxes and a super majority vote for dedicated taxes. Measure Z was presented as a general fund tax which allows the governing body to have autonomy in how the funds are allocated. Measure YY, the advisory that accompanied Measure Z on the ballot, is no more than a suggestion to the Council for how to spend the money.

### City Council Debates Allocation of Measure Z Funds

Because of this ambiguity, there has been a great deal of debate at the City Council as to how the first \$1.6 million installment should be spent: all on police, or mostly on police with some funds set aside for youth crime-prevention programs. This allocation is particularly important; in addition to potentially providing needed funds to various programs, it could set the tone for the allocation of the remainder of the funds for the 15-year lifespan of Measure Z.

The language used in the measures suggests that the funds should be used to support law enforcement and gang prevention programs for at-risk youth. Mayor Pat Morris led the effort to allocate funds for these purposes. As he said, "The measures were written to explicitly include funds for intervention and prevention services for at-risk youth, this is where we can have the greatest impact." Council-members Esther Estrada, Rikke Van Johnson, and Dennis Baxter supported this comprehensive approach to crime prevention.

Opponents of using the first allocation of funds on anything other than police included Councilmembers Chas Kelley, Tobin Brinker, Neil Derry, and Wendy McCammack. They claim that they are following voter intent because the Measure Z campaign emphasized the funding needs of law enforcement, regardless of the measure's language calling for prevention and intervention services for at-risk youth. These four members represent the majority of the seven-person council.

On January 8th, 2007, these four members rejected the proposed allocation of \$132,900 for the Parks and Recreation Department. By the February 5th council meeting, \$1.5 million had been allocated towards the Police Department, mostly for police overtime costs and a helicopter contract. The \$132,900 for Parks and Recreation had been tentatively reduced to \$114,000. At the February 20th council meeting, a large crowd,

including clergy members, activists, and local teenagers turned out and spoke in favor of allocating some of the Measure Z funds to youth programs. Instead, the Council voted unanimously to spend the remaining \$114,000 on upgraded bulletproof vests for the police.

### Funds for Youth Programs

The council minority of Estrada, Johnson, and Baxter supported the police expenditures but wanted the additional money to fund youth programs. The Council took \$114,000 out of the Reserve Fund to fund \$75,000 for the Police Activities League (PAL) and the remaining \$39,000 for city-run community centers. Police Chief Michael Billdt, who also preaches the benefits of prevention and intervention as part of a well-balanced crime reduction strategy, proposed the PAL last month. This came after some council members strongly criticized the suggested Park and Recreations programs. PAL is a youth crime prevention program that utilizes educational, athletic, and recreational activities to create and improve trust and understanding between police officers and youth. Unfortunately, this is only a one-time allocation of funds and does not set a precedent of using Measure Z funds for anything other than police efforts. Furthermore, even these prevention and intervention funds will be fully allocated towards the City and the Police Department and exclude community-based groups.

### Community Turnout and Voices of Youth

Despite the fairly dismal outcome of the Council vote on the allocation of Measure Z funds, the community energy around this issue, particularly from the youth of the community, is very encouraging. At the February 20th meeting, the Council vote followed more than three hours of testimony by clergy members, activists, and local teenagers. The City Fire Marshal estimated that about 150 concerned individuals attended the Council session; typically, council meetings attract very few, if any, residents. Additional citizens packed the lobby, Mayor's office, and gathered outside City Hall to confer and view a live broadcast of the meeting.

Many of these youth had been originally mobilized by the Youth Organizing Project of Inland Congregations United for Change. As part of this mobilization effort, student leaders spearheaded a 114 question survey focusing on community safety, given to more than 7,500 San Bernardino City Unified's high school students. Furthermore, students conducted over 300 interviews with community stakeholders, such as parents and teachers. Survey findings showed widespread violence and fear. For example, 48 percent of students reported having been victims of violence. Students identified racial tension as particularly problematic. The student researchers crafted an action plan based on their findings, which included approving Measure Z tax proceeds for after-school programs for youth, developing summer youth opportunities such as job training, and researching and implementing programs to address racial conflict in schools.

### Future Plans for Measure Z Funds

Only the first phase of Measure Z funds has been allocated. In the coming months, the funds for the entire first year will be allocated. Police Chief Michael Billdt says he needs \$3.6 million in Measure Z funds in the 2007-2008 fiscal year, leaving about \$2 million for different purposes. After careful consideration of the presentation and with a desire to be responsive to the wants and needs of the community, two of the councilmembers who opposed spending any of the first installment funds on non-police activity have stated their desire to put future funds into youth programs. Brinker said he would push for allotting 10 to 15 percent of Measure Z funds into youth programs. Kelley said he would consider using a small portion of the voter-approved tax money on youth-targeted programs.

Nevertheless, it is unclear if funds will be allocated for gang prevention programs in the first or in future years. Councilman Derry promises to deliver all the funds to the Police Department. Furthermore, some doubt the sincerity of promises to fund youth programs in the future, when the funds might no longer be available. In fact, the future availability of funds is uncertain. The plan to hire an additional 40 officers

would consume most of the estimated \$5.6 million per year. Projections place the annual cost of the policemen at \$5.5 million. City manager Fred Wilson suggests that these estimated costs, as well as the estimated proceeds from Measure Z could differ significantly from actual figures. He estimates that any gap between tax receipts and police expenditures should close fast.

### Promising San Bernardino News

Despite some of the resistance in San Bernardino around allocating Measure Z funds towards prevention and intervention services for at-risk youth, San Bernardino is home to several promising programs and legislative pieces that may assist these same at-risk youth.

### Report Finds Operation Phoenix to be a Success

Last June, Mayor Pat Morris introduced Operation Phoenix, a collaborative partnership that provides a coordinated interagency, multidisciplinary team approach to crime and violence through prevention, intervention, and suppression strategies in targeted areas. Currently, the Operation focuses on a 20-block area in San Bernardino, one of the most crime-besieged areas in the city. A report delivered by city and county officials this month deemed the program to be successful and cost-effective. The report found that when comparing the last six months of 2006 to the same months in 2005, crime dropped 38 percent in the 20-block target area, and 21 percent citywide. There have been no new homicides in the target area since the launch of the program. Furthermore, the report cited information from two community surveys overseen by professors of the criminal justice department at Cal State San Bernardino and were administered in May 2006 and January 2007. In January, residents said they felt safer, had brighter outlooks, and were less worried about being victims of most crimes. The report also found that Operation Phoenix has been more economical than previously anticipated. After factoring in county contributions and city resources that would have been spent regardless of the Operation, city and county officials estimated that the city spent \$197,400 solely due to Operation Phoenix.

## Representative Baca Proposes Prevention Legislation

Joe Baca, D-Rialto, from San Bernardino County, sponsored the House version of Mynisha's Law, a companion bill to the one Senator Barbara Boxer reintroduced in January. The legislation is named after 11-year old Mynisha Crenshaw, who was killed as she ate Sunday dinner after a gang-related dispute broke out and gunfire sprayed her apartment building killing her and seriously wounding her 14-year old sister. The comprehensive and preventative nature of this legislation aims to prevent such senseless deaths and was inspired by the success of Operation Phoenix. The Law would create an interagency gang-prevention task force composed of representatives from the Departments of Justice, Education, Labor, Housing and Urban Development, and Health and Human Services. The task force would coordinate the activities of the Federal Government to create a comprehensive gang prevention response, focusing on early childhood intervention, at-risk youth intervention, literacy, employment, community policing, and comprehensive community-based programs. It would also coordinate the federal efforts with local and regional gang prevention efforts.

Furthermore, Baca proposed a special 45-cent stamp to raise money for the Gang Resistance Education and Training (GREAT) program. As part of GREAT, police officers go into schools to educate students about the dangers of gang activity and to give them the skills to resist gang recruitment.

### "Family to Family:" A new approach to children's services

San Bernardino has begun implementing innovative techniques in children's services in the northern sector of the city, including the Operation Phoenix target area, which could significantly affect future crime in the city by strengthening the city's prevention and intervention services for at-risk youth. These techniques, referred to as "Family to Family" and employed by the Department of Children's Services, focus on assigning

children's services workers to small geographic areas so they become acquainted with the community. When a child is referred to the welfare system because of a problem at home, a team is assembled, typically composed of a family member, a community member, and a social worker. Family to Family aims to strengthen and promote stable family environments and stop the escalation of problems at home before a removal of the child is necessary.

### "Ban the Box" Campaign: Legislation to assist offenders re-entering their communities

On March 5, 2007, with the support and urging of a number of activists, the City Council voted 4-2 to explore the methods and impacts of eliminating questions about criminal history on municipal job applications. The issue will be sent to a council committee for exploration and the committee must present its recommendations to the full Council within 120 days.

The California Cities Gang Prevention Network Project is funded by grants from The California Endowment and The California Wellness Foundation (TCWF). Created in 1992 as an independent, private foundation, TCWF's mission is to improve the health of the people of California by making grants for health promotion, wellness education, and disease prevention.

This bulletin is co-written by Angela Wolf, Senior Researcher, National Council on Crime and Delinquency (510) 208-0500 x302, [awolf@sf.nccd-crc.org](mailto:awolf@sf.nccd-crc.org), and Jack Calhoun, President, HopeMatters, Consultant, National League of Cities, (703) 442-0318, [hopenatters@cox.net](mailto:hopenatters@cox.net). Please send thoughts or items about this and future bulletins to Angela with a copy to Jack.

The Department shall be under the management and control of the Public Services Director who shall be appointed by the City Manager with approval of the Mayor and Common Council. Under the policies of the Mayor and Common Council, the Director shall have all the powers and perform all the duties that are now or may hereafter be conferred or imposed by City Charter, law or the Mayor and Common Council relating to streets, rubbish and refuse disposal other than engineering, development and improving of streets which shall be the responsibility of the Department of Development Services; and shall plan, coordinate and report on all the duties and activities involved in such programs.  
(Ord. MC-1220, 3-20-06; Ord. MC-344, 2-20-84)

**Chapter 2.16**  
**DEVELOPMENT SERVICES DEPARTMENT**  
**(REPEALED BY MC-1220)**

**Chapter 2.17**  
**BOARDS, BUREAUS AND COMMISSIONS - GENERAL**

**Sections:**

- |                 |  |
|-----------------|--|
| <b>2.17.010</b> | <b>General provisions.</b>   |
| <b>2.17.020</b> | <b>Members.</b>  |
| <b>2.17.030</b> | <b>Nomination - Terms.</b>   |
| <b>2.17.035</b> | <b>Alternate Members.</b>  |
| <b>2.17.040</b> | <b>Appointment - Registered voter requirement -<br/>Compensation - Oath.</b> |
| <b>2.17.050</b> | <b>Oath of Office.</b>   |
| <b>2.17.060</b> | <b>Chairman - Meetings - Absences.</b>                                       |
| <b>2.17.070</b> | <b>Quorum.</b>   |
| <b>2.17.080</b> | <b>Hearing Officer(s)</b>  |
| <b>2.17.090</b> | <b>Hearing Officers; Powers; Absence of Quorum.</b>                          |
| <b>2.17.100</b> | <b>Hearing Officers; Powers; Referrals.</b>                                  |
| <b>2.17.110</b> | <b>Hearing Officers; Appeals of Decision</b>                                 |

*(City Attorney Opinion No. 93-8)*

**2.17.010 General provisions.**

This chapter generally establishes the manner of appointments, term of service compensation, meeting times, and provisions for vacating of offices of members of the following boards, bureaus and commissions:

- A. Planning Commission;
- B. Central City Parking Place Commission;
- C. Animal Control Commission;
- D. (Repealed by MC-1190);
- E. Fine Arts Commission;
- F. Board of Fire Commissioners;

- G. Board of Police Commissioners;
- H. Human Relations Commission;
- I. (Repealed by MC-1190);
- J. Community Television Commission;
- K. (Repealed by MC-1190);
- L. Bureau of Franchises;
- M. Board of Building Commissioners;
- N. (Repealed by MC-1190);
- O. Senior Affairs Commission.

(Ord. MC-1190, 11-01-04; Ord. MC-1088, 10-2-00; Ord. MC-1014, 1-12-98; Ord. MC-529, 7-7-86; Ord. MC-299, 8-15-83; Ord. MC-277, 6-6-83.)

#### **2.17.020 Members.**

Each board, bureau and commission subject to the provisions of this chapter shall consist of nine members, unless otherwise provided in this title. (Ord. MC-1014, 1-12-98; Ord. MC-277, 6-6-83.)

#### **2.17.030 Nomination - Terms.**

Each Council member shall nominate one member of each such board, bureau and commission who shall serve during and for the term of the nominating Council member. The Mayor shall nominate two members to each such board, bureau and commission, who shall serve during and for the term of the Mayor. The terms of board, bureau and commission members shall coincide with the term of the nominating Council member or Mayor, provided that when a vacancy shall occur in the office of the Council member or the Mayor who originally nominated any member, the applicable term of that member of the board, bureau or commission shall continue until a successor has been appointed. Nomination and appointment of a replacement member at any time shall terminate the appointment of any member so replaced, without need for formal removal action. (Ord. MC-277, 6-6-83.)  
(City Attorney Opinion No. 91-33)

#### **2.17.035 Alternate members.**

The Mayor shall nominate two alternate members to each board, bureau and commission who shall serve during and for the term of the Mayor. Such alternate members may attend the meetings of the board, bureau or commission and may participate in the discussions but shall not be considered for the determination of a quorum pursuant to Section 2.17.070, unless a quorum is not otherwise present. When a quorum is not otherwise present such alternate member or members shall be counted in the determination of a quorum and may vote and have all other rights and responsibilities of a member of the board, bureau or commission for that meeting. When any regular member of the board, bureau or commission is not in attendance, but a quorum still exists, the most senior alternate member may vote on any matter pending before the board, bureau or commission, and shall have all other rights and responsibilities of a member of the board, bureau or commission for that meeting. If two or more regular members are not in attendance then both alternate members may vote and have such rights and responsibilities. (Ord. MC-832,

5-18-92; Ord. MC-767, 2-4-91)

**2.17.040 Appointment - Registered voter requirement - Compensation - Oath.**

Each member of such board, bureau or commission, after having been nominated, shall be appointed by the Mayor, with the approval of the Common Council. Each member shall be and remain a registered voter within the City and each member of such board, bureau or commission nominated by a Council member shall be and remain a resident of the ward of such Council member during the term of appointment, except as may be otherwise provided in this title. Members shall serve, without compensation, at the pleasure of the Mayor and Common Council. Any member no longer holding the qualifications required for appointment shall cease to serve as a member, and such member's position shall be deemed vacant, except that if a ward boundary change results in the member no longer residing in the nominating Council member's ward, such member may continue to serve until a replacement member is nominated and appointed. Any vacancy shall be filled and appointment shall be made in the manner herein before set forth as for an original appointment. (Ord. MC-652, 2-20-89; Ord. MC-277, 6-6-83.)

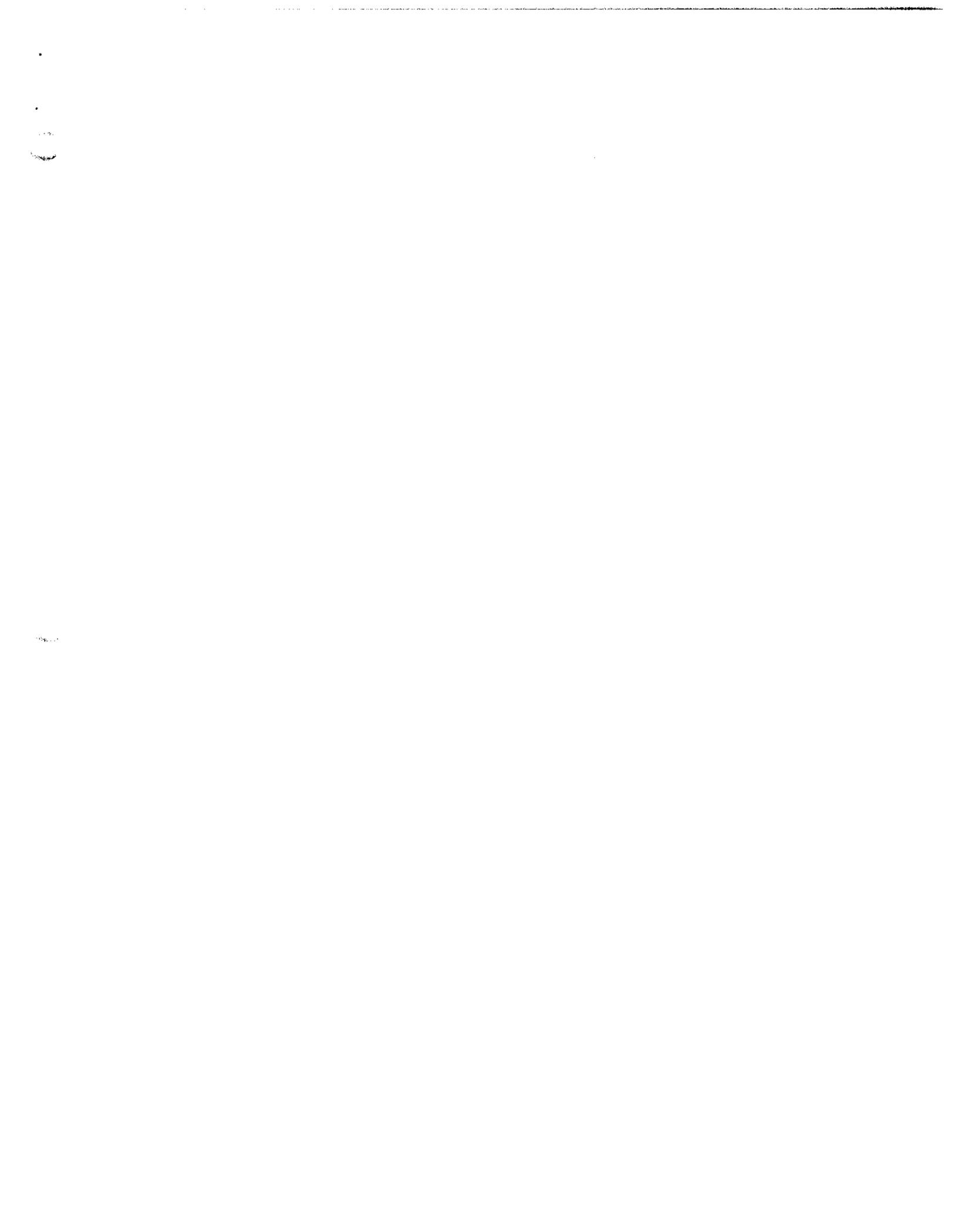
**2.17.050 Oath of Office.**

Prior to undertaking his or her duties as a member of any such board, bureau or commission, the member shall subscribe and file his or her official oath of office with the City Clerk. (Ord. MC-277, 6-6-83.)

**2.17.060 Chairman - Meetings - Absences.**

- A. Each board, bureau and commission shall elect a chairman and vice-chairman from among its members, and the chairman and vice-chairman shall serve for a term of one year. The board, bureau or commission shall meet not less than once a month in the City Hall, San Bernardino, California, or such other place within the City as the board, bureau or commission may select.
- B. If a member of any board, bureau or commission fails to attend three consecutive regular meetings without excuse from the chairman, which excuse must be obtained within five calendar days before or after any meeting date, he or she shall automatically cease to be a member of the board, bureau or commission, and the chairman of such board, bureau or commission shall notify the former member and the nominating official of the declared vacancy. The vacant office shall be filled by nomination and appointment made in the manner of the original appointment.
- C. Meetings of each board, bureau or commission shall be open to the public and shall be governed by the provisions of the Ralph M. Brown Act, Sections 54950.5, et seq., California Government Code. (Ord. MC-277, 6-6-83.)

**2.17.070 Quorum.**



Any five members in attendance at any meeting shall constitute a quorum. Except for public hearings (which shall not be conducted without a quorum), a board, bureau or commission may meet in the absence of a quorum as a committee of the whole, and recommend actions and propose resolutions which, if ratified at a subsequent meeting of such board, bureau or commission at which a quorum is present, shall constitute the official action of such board, bureau or commission. (Ord. MC-277, 6-6-83.)

#### **2.17.080 Hearing Officer(s)**

The Board of Building Commissioners or the Planning Commission may designate such Hearing Officer(s) as are necessary to hear such matters as are hereinafter described. (Ord. MC-803, 8-7-91.)

#### **2.17.090 Hearing Officers; Powers; Absence of Quorum.**

Hearing Officer(s) appointed pursuant to this chapter may hear any and all matters on the agenda of the Board of Building Commissioners in the absence of a quorum of said Board and may hear any Conditional Use Permit Revocation item on the agenda of the Planning Commission in the absence of a quorum. (Ord. MC-803, 8-7-91.)

#### **2.17.100 Hearing Officers; Powers; Referrals.**

Hearing Officer(s) appointed pursuant to this chapter may hear any item referred to said officer by the Board of Building Commissioners or by the Planning Commission. (Ord. MC-803, 8-7-91.)

#### **2.17.110 Hearing Officers; Appeals of Decision.**

Decisions of Hearing Officer(s) shall be appealable in the manner provided by ordinance or other law within the time(s) provided by said ordinance or other law, and any appeal taken shall be in the same manner prescribed for appeals of the Commission the Hearing Officer is acting on behalf of. (Ord. MC-803, 8-7-91)

#### **Chapter 2.18<sup>4</sup>**

#### **PARKS, RECREATION AND COMMUNITY SERVICES DEPARTMENT**

##### **Sections:**

|                 |   |
|-----------------|---|
| <b>2.18.010</b> | <b>Created.</b>                                 |
| <b>2.28.020</b> | <b>Functions and responsibilities.</b>          |
| <b>2.18.030</b> | <b>Park and Recreation Commission - Duties.</b> |
| <b>2.18.040</b> | <b>No compensation - Meetings.</b>              |

##### **2.18.010 Created.**

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<sup>4</sup> For charter provisions on the Park and Recreation Commission, see Charter Art. XII-A.

report annually to voters on the use of the proceeds. He stated that that was not required for a general tax, but it was a very good idea.

Council Member/Commissioner McCammack made a motion, seconded by Council Member/Commissioner Johnson, that the matter be continued to August 8, 2006, at 3:30 p.m. in the Council Chambers of City Hall.

The motion carried by the following vote: Ayes: Council Members/Commissioners Estrada, Baxter, Derry, Johnson, McCammack. Nays: None. Absent: Council Member/Commissioner Kelley. Vacant: Third Ward.

- S4. **An Ordinance of the City of San Bernardino imposing a General Transactions and Use Tax to be administered by the State Board of Equalization pursuant to Revenue and Taxation Code Sections 7251 et seq., subject to voter approval, and providing for sunset of the tax, and the creation of a Citizen's Oversight Committee. FIRST READING** (Note: See pages 23 and 24 for subsequent action taken on August 8, 2006.)

Note: No backup materials were distributed.

Michael G. Colantuono, Attorney at Law, Colantuono & Levin, 11406 Pleasant Valley Road, Penn Valley, CA, stated that the first 15 sections of this ordinance were boilerplate. He stated that because this is a sales tax and there is an existing very articulate, very complicated fully blown structure for collecting sales taxes from every point of sales in the State, in order to impose a sales tax you must do it exactly the way the State Board of Equalization tells you to, you must contract with them to administer it, and you have no discretion. You can choose what title to call it and you can choose what tax rate to choose in the window between one-quarter percent and one and one-half percent, and it has to be an even one-quarter cent.

Mr. Colantuono stated that Section 16 provides for the 15-year sunset and one draft provides authority to the Council to suspend the tax for a period of time should they not need the revenues, and then to re-impose the tax without additional voter approval provided that two things are true: 1) they don't raise the rate above one-quarter cent; and 2) they don't extend it beyond the 15-year sunset. He stated that Section 18 contains the direction that there be a Citizen's Advisory Committee that will review the expenditures of the tax and will report to the voters at least annually. Section 19 allows the Mayor and the City Clerk to sign the ordinance again. They will sign it once after the Council adopts it, and then if the voters should adopt it, there is a second signature block that would provide certification that the voters did in fact adopt it.

Mr. Colantuono stated that this sales tax is just a little different than the general sales tax. He stated that the most important difference is with respect to vehicle

sales in that it is not the point of sale that triggers the tax, it is the home address of the person who registers the vehicle.

Council Member/Commissioner McCammack made a motion, seconded by Council Member/Commissioner Baxter, that the matter be continued to August 8, 2006, at 3:30 p.m. in the Council Chambers of City Hall; and that the Oversight Committee be composed of two Mayoral appointees and one appointee by each Council Member, who is a registered voter in their respective ward.

The motion carried by the following vote: Ayes: Council Members/Commissioners Estrada, Baxter, Derry, Johnson, McCammack. Nays: None. Absent: Council Member/Commissioner Kelley. Vacant: Third Ward.

- S4A. **RES. 2006-289** – Resolution of the Mayor and Common Council of the City of San Bernardino appropriating any proceeds of a General Transactions and Use Tax. (Note: See pages 24 and 25 for subsequent action taken on August 8, 2006.)

Note: No backup materials were distributed.

Michael G. Colantuono, Attorney at Law, Colantuono & Levin, 11406 Pleasant Valley Road, Penn Valley, CA, stated that if this tax is approved by the voters in November, it will go into effect in April and the City will start seeing proceeds in May. He recommended that the budget be amended to include authorization to spend this money on the public safety services as intended. He stated that this resolution was all boilerplate except for Exhibit A, which lists the anticipated revenues of \$1.5 million and it outlines the expenditures of public safety services. Mr. Colantuono stated that next year's budget document would look at a whole year's worth of revenue and the portion of the City's 40 officer, 21 Beat Plan that could be implemented in that time.

Council Member/Commissioner McCammack made a motion, seconded by Council Member/Commissioner Johnson, that the matter be continued to August 8, 2006, at 3:30 p.m. in the Council Chambers of City Hall.

The motion carried by the following vote: Ayes: Council Members/Commissioners Estrada, Baxter, Derry, Johnson, McCammack. Nays: None. Absent: Council Member/Commissioner Kelley. Vacant: Third Ward.

- S5. **RES. 2006-285** – Resolution of the City of San Bernardino amending Resolution No. 3985 entitled, in part, "A Resolution... prohibiting parking upon certain designated streets, alleys, or portions thereof..." to establish a no parking except by permit at any time zone on residential streets located west of Waterman Avenue and south of Parkdale Drive in the vicinity of Golden Valley Middle School.