



AGENDA SUMMARY PAGE
CITY COUNCIL MEETING OF: MAY 21, 2008

DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC

Consent Discussion

SUBJECT: BEYAN ITEM - Discussion and possible action for continued funding of Harrison, Kemp & Jones to represent the City of Las Vegas in an arbitration filed against it by Asphalt Products Corporation for the construction of Washington Buffalo Park Phases 1-A and 1-B for an amount not to exceed \$700,000 (General Fund) - Ward 4 (Brown)

Fiscal Impact

No Impact Augmentation Required
 Budget Funds Available

Amount: \$700,000
Funding Source: General Fund
Dept./Division: City Attorney

PURPOSE/BACKGROUND:

Asphalt Products Corporation (APCO) contracted with the City to construct Washington Buffalo Park Phases 1-A and 1-B December 17, 2003. APCO constructed the park and City staff found the construction to be defective. APCO demanded that the City pay millions of dollars in addition to the contract price. City staff refused. APCO filed for arbitration in December 2005. The arbitration commenced September 5, 2007 and APCO spent 32 days attempting to prove its case seeking \$7 million. The City has started to prove its counterclaims for millions of dollars. The City Council has previously authorized funding in an amount of \$2.3 million. Consultant, expert witnesses, testing, printing, arbitration, related expenses, and attorneys' fees now exceed \$2.2 million.

RECOMMENDATION:

Approval

BACKUP DOCUMENTATION:

None

Motion made by GARY REESE to Approve

Passed For: 6; Against: 0; Abstain: 1; Did Not Vote: 0; Excused: 0
LARRY BROWN, RICKI Y. BARLOW, LOIS TARKANIAN, STEVE WOLFSON, GARY REESE, STEVEN D. ROSS; (Against-None); (Abstain-OSCAR B. GOODMAN); (Did Not Vote-None); (Excused-None)

NOTE: MAYOR GOODMAN disclosed that he would abstain from voting, as one of the principals of APCO is his partner in a small investment in the Apex Industrial Park.

CITY COUNCIL MEETING OF: May 21, 2008

Minutes:

WILLIAM HENRY, Senior Litigation Counsel, stated the item was in order and recommended approval.

COUNCILMAN REESE noted that the construction work by APCO of Washington Buffalo Park between 2003 and 2005 was defective. APCO demanded that the City pay monies, in addition to the contract price, but did not provide any evidence warranting such request. Thereafter, APCO sued the City in December 2005 and demanded \$7 million in addition to the contract price.

The Councilman pointed out that defending City taxpayers against this suit has been very costly, but the City has already paid the majority of the fees; he supported the recommendation.

