

**AGENDA FOR THE  
REGULAR COUNCIL MEETING OF  
MONDAY, MARCH 30, 2009, AT 2:00 P.M.  
CITY ADMINISTRATION BUILDING  
COUNCIL CHAMBERS – 12<sup>TH</sup> FLOOR  
202 “C” STREET  
SAN DIEGO, CA 92101**  
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- ITEM-1:                   ROLL CALL.
- ITEM-10:                 INVOCATION.
- ITEM-20:                 PLEDGE OF ALLEGIANCE.

**=== LEGISLATIVE SCHEDULE ===**

Special Orders of Business

- ITEM-30:                 Children and Nature Awareness Month.  
COUNCILMEMBER GLORIA’S RECOMMENDATION: Adopt the  
resolution.
- ITEM-31:                 Cesar Chavez Commemoration Committee Day.  
COUNCIL PRESIDENT HUESO’S AND COUNCILMEMBER  
YOUNG’S RECOMMENDATION: Adopt the resolution.

**NON-AGENDA PUBLIC COMMENT**

This portion of the agenda provides an opportunity for members of the public to address the Council on items of interest within the jurisdiction of the Council. (Comments relating to items on today's docket are to be taken at the time the item is heard.)

Time allotted to each speaker is determined by the Chair, however, comments are limited to no more than three (3) minutes **total per subject** regardless of the number of those wishing to speak. Submit requests to speak to the City Clerk **prior** to the start of the meeting. Pursuant to the Brown Act, no discussion or action, other than a referral, shall be taken by Council on any issue brought forth under "Non-Agenda Public Comment."

**MAYOR, COUNCIL, INDEPENDENT BUDGET ANALYST, CITY ATTORNEY COMMENT**

**UPDATES ON PENDING LEGISLATION (MAYOR'S OFFICE)**

**REQUESTS FOR CONTINUANCE**

The Council will consider requests for continuance.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Consent Items

- ITEM-60: Two actions related to Parking Meter Utilization Improvement. (Citywide.)  
LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:  
On 3/11/2009, LU&H voted 4 to 0 to seek input from the Community Planners Committee on the recommendations contained in the Parking Meter Utilization Plan, and refer the plan to the full City Council for action.
- ITEM-100: Continued Retention, Payment for Invoices, and Future Reserve Funding, for Latham & Watkins, LLP for Legal Services in *Marcus Abbe et al. v. City of San Diego*, for an additional amount not to exceed \$2,000,000.  
CITY ATTORNEY'S RECOMMENDATION: Adopt the resolution.
- ITEM-101: Continued Retention, Payment of Invoices, and Future Reserve Funding, for Latham & Watkins, LLP for Legal Services in *Marcus Abbe, et al. v. City of San Diego*, for an additional amount not to exceed \$175,000.  
CITY ATTORNEY'S RECOMMENDATION: Adopt the resolution.
- ITEM-102: Application to the California Department of Transportation for a total of \$1,150,000 in Transportation Planning Grant Funding for Five Transportation Projects. (Linda Vista, Clairemont Mesa, Mission Valley, Pacific Beach, Greater Golden Hill, Greater North Park, and Southeastern San Diego Community Areas. Districts 2, 3, 4, 6, and 8.)  
STAFF'S RECOMMENDATION: Adopt the resolution.
- ITEM-103: Proposition 1C – Transit Oriented Development and Infill Infrastructure Grant Applications. (Centre City, North Park, Southeastern, and Mission George Community Areas. Districts 2, 3, 4, and 7.)  
STAFF'S RECOMMENDATION: Adopt the resolution.
- ITEM-104: Picnic People Day.  
COUNCILMEMBER DEMAIO'S RECOMMENDATION: Adopt the resolution.

=== **LEGISLATIVE SCHEDULE (Continued)** ===

Adoption Agenda, Consent Items (Continued)

ITEM-105: Colon Cancer Awareness Month.  
COUNCILMEMBER FRYE'S RECOMMENDATION: Adopt the resolution.

ITEM-106: Gastroenterology Nurses and Associates Day.  
COUNCILMEMBER FRYE'S RECOMMENDATION: Adopt the resolution.

Adoption Agenda, Discussion, Other Legislative Items

ITEM-200: 2008 Salary Setting Commission's Recommendation for Mayor and City Council Members.  
**SALARY SETTING COMMISSION'S RECOMMENDATION:**  
Adopt the resolution.

Noticed Hearings, Discussion

ITEM-330: Ratification of the 2009 San Ysidro Project Area Committee (PAC) Election and Adoption of the Amended and Restated Procedure for Formation and Election of the Project Area Committee for the San Ysidro Redevelopment Project Area. (San Ysidro Community Area. District 8.)  
STAFF'S RECOMMENDATION: Adopt the resolutions.

ITEM-331: 8111 Camino Del Oro Tentative Map, Project No. 152137. Appeal of a decision by the Planning Commission to approve an application for a Coastal Development Permit and Tentative Map to convert 17 existing residential units into 14 condominium units and a waiver to underground existing overhead utilities. The 0.30 acre site is located at 8111 Camino Del Oro between La Vereda and Camino Del Sol. (La Jolla Shores Planned District of the La Jolla Community Plan Area. District 1.)  
STAFF'S RECOMMENDATION: Take the action.

**CLOSED SESSION NOTICES, DISCLOSURE, AND PUBLIC COMMENT**

In accordance with the San Diego City Council Permanent Rule for Noticing and Conduct of Closed Session Meeting, adopted on February 28, 2005, this portion of the agenda is reserved for City Attorney comment, public comment, and City Council discussion of the content of the Closed Session Agenda. **Public testimony for the Closed Session Agenda will be taken during the open session meeting. The Closed Session will commence immediately following the conclusion of the open session meeting.**

The Closed Session Agenda is separately available in the Office of the City Clerk and also posted at the same locations as the Open Session Agenda, including the City internet address.

**NOTE:** Members of the public wishing to address the City Council on any item on the Closed Session Agenda should reference the Closed Session item number from the Closed Session Docket on the speaker slip. Speakers may speak “in favor” or “in opposition” to the subject.

**Information Item - No Action Required - The City Council shall:**

1) Consider any oral report from the City Attorney or City negotiators; 2) Accept testimony from any member of the public wishing to address the City Council on any item appearing on the Closed Session Agenda; 3) Allow for questions and discussion by Council Members, limited to the facts as disclosed by the City Attorney or City negotiators and the basis or justification for consideration of the matter in Closed Session; 4) Refer matters discussed to Closed Session.

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT

**=== EXPANDED CITY COUNCIL AGENDA ===**

SPECIAL ORDERS OF BUSINESS

ITEM-30: Children and Nature Awareness Month.

[▶ View referenced exhibit back-up material.](#)

**COUNCILMEMBER GLORIA'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-952)

Commending the Children and Nature Network for its continued work to reconnect children with nature;

Proclaiming April 2009, to be "Children and Nature Awareness Month" in the City of San Diego.

SPECIAL ORDERS OF BUSINESS (Continued)

ITEM-31: Cesar Chavez Commemoration Committee Day.

[▶ View referenced exhibit back-up material.](#)

**COUNCIL PRESIDENT HUESO'S AND COUNCILMEMBER YOUNG'S  
RECOMMENDATION:**

Adopt the following resolution:

(R-2009-931)

Proclaiming March 30, 2009, to be "Cesar E. Chavez Commemoration Committee Day" for its goals and achievements in the community.

ADOPTION AGENDA, CONSENT ITEMS

ORDINANCES TO BE INTRODUCED WITH RESOLUTIONS TO BE ADOPTED:

\* ITEM-60: Two actions related to Parking Meter Utilization Improvement. (Citywide.)

[▶ View referenced exhibit back-up material.](#)

(See Report to the City Council No. 09-027; CP&CI Department's undated report; CP&CI Department's February 17, 2009, report (Revised); and Council Policy No. 100-18.)

**TODAY'S ACTIONS ARE:**

Introduce the following ordinance in Subitem A and adopt the resolution in Subitem B:

Subitem-A: (O-2009-106)

Introduction of an Ordinance amending Chapter 8, Article 1, by amending Section 81.01.15; by amending Chapter 8, Article 2, by amending Sections 82.04, 82.06, 82.08, and 82.09; amending Chapter 8, Article 6, by amending Sections 86.11 through 86.17, of the San Diego Municipal Code, all relating to Parking Meter Regulations. This ordinance makes changes to the City of San Diego Municipal Code Chapter 8, Traffic and Vehicles, to establish a target on-street rate of 85 percent to optimize parking; to authorize the Mayor to set meter rates between \$0.50 and \$3.00 and to set hours of meter operation within the range of 8:00 a.m. to 2:00 a.m., Monday through Sunday to achieve the target utilization rate.

Subitem-B: (R-2009-926)

Amending Council Policy No. 100-18 titled "Community Parking District Policy;"

Recognizing the Downtown Parking Management Group (DPMG) as an advisory group to Centre City Development Corporation acting as the Parking Advisory Board for the Downtown Community Parking District, which shall advise City staff and make recommendations on meter locations, rates, time limits, hours of operation; new parking technology; and other activities and improvements in order to address parking-related issues pursuant to Council Policy 100-18;

Instructing the City Clerk to add the aforesaid to the Council Policy Manual;

Declaring that this activity is not a project and is therefore exempt from CEQA pursuant to the State Guidelines Section 15060(c)(3).

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES TO BE INTRODUCED WITH RESOLUTIONS TO BE ADOPTED:  
(Continued)

\* ITEM-60: (Continued)

**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**

On 3/11/2009, LU&H voted 4 to 0 to seek input from the Community Planners Committee on the recommendations contained in the Parking Meter Utilization Plan, and refer the plan to the full City Council for action. (Councilmembers Lightner, Faulconer, Gloria, and Young voted yea.)

**SUPPORTING INFORMATION:**

In June 2003, the City Council was asked to consider raising parking meter rates above \$1.00/hour. City Council asked the City Manager to form a Parking Task Force to make recommendations on various parking-related issues. A final set of recommendations was brought forth in September 2004, including adopting general policy guidelines for parking management implementation, such as: on-street parking is a public resource; parking control tools should be utilized to manage and optimize parking supply and usage; and parking meter rates should vary and meters should be operated during the days and hours that require management of the supply.

The Parking Task Force also recommended the creation of a downtown working group (DPMG) which recommended a pilot program in a sub-area of the Downtown Community Parking District. The goal of the Pilot was to provide information and sample techniques that would optimize the use of on-street parking in the downtown area and that could later be applied citywide.

The DPMG and City staff completed a substantive review of the literature and practices of comparable cities to determine the appropriate strategies for managing the traffic and parking demand in downtown. They found that one of the most effective tools for managing on-street parking was performance-based pricing, i.e. to price parking in order to meet a target occupancy/utilization rate of 85 percent (15 percent vacancy) on each city block.

Studying the utilization rates, the DPMG made recommendations to City staff to adjust hourly rates and time limits to meet the target. In addition, the DPMG researched new parking meter technologies that could better serve motorists, enhance the streetscape and improve the City's internal administration. The result was the installation of 50 new multi-space pay stations with credit card and wireless capabilities to serve approximately 300 on-street parking spaces.

ADOPTION AGENDA, CONSENT ITEMS (Continued)ORDINANCES TO BE INTRODUCED WITH RESOLUTIONS TO BE ADOPTED:  
(Continued)

\* ITEM-60: (Continued)

**SUPPORTING INFORMATION:** (Continued)

The Parking Task Force recommendations, as tested in the Pilot, demonstrated that implementing a combination of flexible management strategies and the installation of new meter technology can optimize on-street parking, as evident in the data highlights:

- 106 percent increase in the utilization rate of on-street parking spaces by adjusting rates and time restrictions alone;
- Parking meter revenue increased by 89 percent to \$127,537 by adjusting rates and time restrictions alone;
- Upwards of an additional 12 percent increase in utilization rates with multi-space pay stations;
- An additional 24% increase in parking meter revenue with multi-space pay stations; and
- Improved payment convenience and compliance marked by 65% credit card payment at multi-space pay stations and a decrease in citation revenue.

The average meter utilization rate in the City is 38% and the majority of meters are set at a fixed rate of \$1.25 per hour. Authorizing the Mayor to set meter rates between \$0.50 and \$3.00 and to set hours of meter operations within the range of 8:00 a.m. to 2:00 a.m., Monday through Sunday, would facilitate achieving the target utilization rate. Successful implementation would also involve the parking advisory bodies to the Community Parking Districts (CPD's). In collaboration with a proposed Transportation Engineer position and other City staff, these groups would analyze utilization data and suggest adjustments to meter rates, time limits, and hours of operation, to achieve the established target rate. Four additional Parking Meter Technician positions would also be needed to facilitate maintenance/repair of meters and to provide for meter enforcement during the extended hours. Testing new technologies and alternative enforcement strategies would facilitate data collection, analysis, and enforcement.

**FISCAL CONSIDERATIONS:**

Anticipated increase in parking meter revenue of almost \$8.4 million beginning in FY 2010 with an additional \$1.0 million beginning in FY 2011 and \$0.1 million in FY 2012 will be partially offset by additional staffing and operational costs in FY 2010 of \$0.4 million. The additional costs will decline by \$0.3 million by FY 2012. Per CP 100-18, 45 percent of the net increase i.e. \$3.0 million in FY 2010, will be allocated to the CPD program.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

City Council directed the establishment of a Parking Task Force in June 2003, and a final set of recommendations were brought forth in September 2004, in Manager's Report No. 04-214.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES TO BE INTRODUCED WITH RESOLUTIONS TO BE ADOPTED:  
(Continued)

\* ITEM-60: (Continued)

**SUPPORTING INFORMATION:** (Continued)

The City Council passed Resolution R-299867 (November 22, 2004), Ordinance Number O-19343 (December 7, 2004), Ordinance Number O-19493 (May 19, 2006), and Ordinance Number O-19675 (November 15, 2007), which established the Downtown Pilot Program and granted the City Manager the authority to vary the time limits and meter rates for the Pilot program. The Land Use and Housing Committee heard this item on March 11, 2009, and approved forwarding it to the full City Council and requested that the report also be sent to the Community Planning Chairs.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

City staff provided information on the proposed changes for Parking Meter Utilization Improvement to the Downtown, Uptown, and Mid-City parking groups for the Community Parking Districts during December 2008, and January 2009. All of the groups approved the recommendations. Also, in January 2009, the Parking Advisory Board, with citywide representation from the Council Districts, the BID Council, the Community Planning Committee, and the Community Parking Districts, approved the Parking Meter Utilization Improvement changes.

The Pilot results and recommendations were submitted to the City in June 2007, and also approved by CCDC in July 2007. The Mayor's Parking Advisory Board approved the recommendations in August 2007.

The DPMG represents resident, business, property owner, and government organizations throughout Downtown. The DPMG monthly meetings are open to the public and attended by City staff and interested community members. During the Pilot, City staff also initiated a public outreach program to inform the public of the new approaches to on-street parking downtown.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

The key stakeholders are the business owners, property owners, and residents in Downtown, Mid-City, and Uptown. There are just a few meters in other areas such as Mission Bay and Logan Heights. Within Downtown, the key stakeholders for the Pilot are the Downtown Residents Group, Cortez Residents, Gaslamp Quarter Association, Downtown San Diego Partnership, Centre City Advisory Committee, San Diego Padres, Little Italy, East Village, and the Centre City Development Corporation. Other stakeholders who may be impacted by changes in staff support, and enforcement technologies and strategies, include the business owners, property owners, and residents in the other Community Parking Districts of La Jolla, Old Town, and Pacific Beach, as well as the rest of the City.

Anderson/Goldstone

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

- \* ITEM-100: Continued Retention, Payment for Invoices and Future Reserve Funding for Latham & Watkins, LLP for Legal Services in *Marcus Abbe et al. v. City of San Diego*, for an additional amount not to exceed \$2,000,000.

[▶ View referenced exhibit back-up material.](#)

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-833)

Authorizing the City Attorney to continue the retention of Latham & Watkins, LLP, for an additional amount not to exceed \$2,000,000, to provide legal services in *Marcus Abbe, et al. v. City of San Diego*, USDC Case Nos. 05cv1629 and 06cv538 DMS (RBB) and to pay for related litigation expenses;

Authorizing the City Comptroller to expend an amount not to exceed \$2,000,000 from the Public Liability Fund, solely and exclusively, for the purpose of providing funds for the above-described legal services and litigation expenses.

**SUPPORTING INFORMATION:**

On August 16, 2005, current and former San Diego Police Department officers filed a lawsuit against the City in the case of *Marcus R. Abbe, et al. v. City of San Diego*, USDC Case No. 05cv1629 DMS (RBB). The case was consolidated by the United States District Court with a related case, *Burkett v. City of San Diego*, USDC Case No. 06cv0538 DMS (RBB). There are approximately 1,500 Plaintiffs. The Plaintiffs contend that their rights to compensation, including overtime pay, under the Fair Labor Standards Act have been violated by the City. The Plaintiffs are demanding \$250 million in compensation. The District Court has granted partial summary judgment in favor of the City. A defense verdict was rendered in the jury trial of 8 "test" plaintiffs.

**FISCAL CONSIDERATIONS:**

Authorize an additional \$2,000,000 from the Public Liability Fund 81140 to provide the defense to the City of San Diego in SDPOA #2 *Marcus R. Abbe, et al. v. City of San Diego*, USDC Case Nos. 05cv1629 and 06cv0538 DMS (RBB).

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-100: (Continued)

**SUPPORTING INFORMATION:** (Continued)

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE):

Not Applicable.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On November 18, 2008, the City Council voted in Closed Session on Item CS-3, *Marcus Abbe, et al. v. City of San Diego*, U.S. District Court Case Nos. 05cv1629 and 06cv538 DMS (RBB)(“POA 2”), to authorize continued retention of Latham & Watkins LLP, and \$2,000,000 of additional funding for outside counsel. The motion was made by Council President Scott Peters and the second by Councilmember Atkins. The motion passed 8 to 0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: Not Applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Latham & Watkins, LLP

Bellows/Jones

Aud. Cert. 2900664.

Staff: George Schaefer – (619) 533-5861

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- \* ITEM-101: Continued Retention, Payment of Invoices and Future Reserve Funding for Latham & Watkins, LLP for Legal Services in *Marcus Abbe, et al. v. City of San Diego*, for an additional amount not to exceed \$175,000.

[▶ View referenced exhibit back-up material.](#)

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-979)

Authorizing the City Attorney to continue the retention of Latham & Watkins, LLP, for an additional amount not to exceed \$175,000, to provide legal services in *Marcus Abbe, et al. v. City of San Diego*, USDC Case Nos. 05cv1629 and 06cv538 DMS (RBB) and to pay for related litigation expenses;

Authorizing the City Comptroller to expend an amount not to exceed \$175,000 from the Public Liability Fund, solely and exclusively, for the purpose of providing funds for the above-described legal services and litigation expenses.

**SUPPORTING INFORMATION:**

On August 16, 2005, current and former San Diego Police Department officers filed a lawsuit against the City in the case of *Marcus R. Abbe, et al. v. City of San Diego*, USDC Case No. 05cv1629 DMS (RBB). The case was consolidated by the United States District Court with a related case, *Burkett v. City of San Diego*, USDC Case No. 06cv0538 DMS (RBB). There are approximately 1,500 Plaintiffs.

The Plaintiffs contend that their rights to compensation, including overtime pay, under the Fair Labor Standards Act have been violated by the City. The Plaintiffs are demanding \$250 million in compensation. The District Court has granted partial summary judgment in favor of the City. A defense verdict was rendered in the jury trial of 8 "test" plaintiffs. Additional funds are necessary because the Court has requested briefing on how the jury's verdict affects the other Plaintiffs' cases; furthermore, Plaintiffs have filed post-trial motions challenging the jury's verdict.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-101: (Continued)

**SUPPORTING INFORMATION:** (Continued)

FISCAL CONSIDERATIONS:

Authorize an additional \$175,000 from the Public Liability Fund 81140 to provide the defense to the City of San Diego in SDPOA #2 *Marcus R. Abbe, et al. v. City of San Diego*, USDC Case Nos. 05cv1629 and 06cv0538 DMS (RBB).

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE): Not Applicable.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On February 24, 2009, the City Council voted in Closed Session on Item CS-9, *Marcus Abbe, et al. v. City of San Diego*, U.S. District Court Case No. 05cv1629 and 06cv538 DMS (RBB)("POA 2"), to authorize continued retention of Latham & Watkins LLP, and \$175,000 of additional funding for outside counsel and litigation expenses. The motion was made by Councilmember Kevin Faulconer and seconded by Councilmember Marti Emerald. The motion passed 8 to 0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: Not Applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Latham & Watkins, LLP

Jones

Aud. Cert. 2900665.

Staff: George Schaefer – (619) 533-5861

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- \* ITEM-102: Application to the California Department of Transportation for a total of \$1,150,000 in Transportation Planning Grant Funding for Five Transportation Projects. (Linda Vista, Clairemont Mesa, Mission Valley, Pacific Beach, Greater Golden Hill, Greater North Park, and Southeastern San Diego Community Areas. Districts 2, 3, 4, 6, and 8.)

[▶ View referenced exhibit back-up material.](#)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-963)

Authorizing the Mayor, or designee, for and on behalf of the City to make an application to the California Department of Transportation for a total of \$1,150,000 in Transportation Planning Grant Funding for the five transportation Projects as follow;

Authorizing the Mayor, or designee, to take all necessary actions to secure funds from CalTrans for the Projects;

Authorizing the City Comptroller to accept, appropriate and expend funds if the Transportation Planning Grant Funding is secured;

Authorizing the City Comptroller to expend matching funds in an amount not to exceed \$25,000 from CIP-52-274.0, Balboa Avenue Corridor Improvement Fund, if grant funding is secured;

Authorizing the City Comptroller to accept, appropriate and expend funds in the amount of \$7,500 of privately donated funds from the Bayside Community Center if the grant funding is secured;

Authorizing the City Comptroller to establish a special interest-bearing Fund for the Grants and donation;

Declaring that this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3).

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-102: (Continued)

**STAFF SUPPORTING INFORMATION:** (Continued)

California Department of Transportation (CalTrans) has established the California Transportation Planning Grant Program which includes the Community Based grants and Environmental Justice grants to provide state funding for a competitive grant program to fund transportation-related planning activities that will help to engage the community in the planning process in efforts to better coordinate transportation and land use, improve mobility, access, and economic vitality. CalTrans allows the City to submit applications as the sole recipient or with community based organizations or groups as sub recipients to the City. The City Planning & Community Investment Department has prepared draft grant applications for five transportation planning project applications requesting a total of \$1.15 million in state funding. Three of the applications are with community sub recipients.

The City received seven requests from six community based organizations/groups. After careful consideration of all the received requests, City staff selected three requests to include as sub recipients. In addition to the selected community request, City staff also identified two other transportation planning projects to submit for the grant funding. The projects were selected based on their ability to meet the intent of the grants as well as the project location in relationship to pedestrian and transit activities for improving the opportunities for multimodal mobility and alignment with City and regional planning projects for efficient use of City staff resources. The deadline for submitting the grant applications to Caltrans is April 1, 2009. The attachment summarizes the following five proposed CalTrans transportation planning project grant applications (with sub recipients):

- Western Gateway Balboa Avenue Concept and Feasibility Study - Community Based (Balboa Avenue Citizens Advisory Committee);
- Linda Vista Pedestrian Access Study - Environmental Justice (Bayside Community Center);
- Central Mission Valley Mobility Study - Community Based (Mission Valley Community Planning Group);
- 30th Street Corridor Mobility Study - Community Based; and
- National Avenue Master Plan-Environmental Justice;

FISCAL CONSIDERATIONS:

For all five grant proposals, the total in-kind total staff time match is \$95,000 which will be absorbed into the City Planning & Community Investment Department's Fiscal Year 2010 budget.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-102: (Continued)

**STAFF SUPPORTING INFORMATION:** (Continued)

In addition to the in-kind staff time, the Western Gateway Concept and Feasibility Study would use \$25,000 from the Balboa Avenue Corridor Improvement Fund (CIP-52-274.0), and the Bayside Community Center (Linda Vista) would donate \$7,500 to the City for the Vista Road Mobility Study for local match funds if awarded. The Central Mission Valley Mobility Study, 30th Street Corridor project, and the National Avenue Master Plan would not require additional funding for the local matches, but rather use and build upon the planning work currently underway for the San Diego River Park Master Plan, Greater Golden Hill and Greater North Park community plan update, and the Gateway Center West redevelopment plan amendment, respectively.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

CalTrans notified the chairperson for the community planning groups and other community organizations and directed the interested groups and organizations to contact the City. As a key part of the planning project effort, City staff will conduct further outreach efforts and seek community participation.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Bayside Community Center (Linda Vista); Linda Vista Community Planning Group; Mission Valley Community Planning Group; Balboa Avenue Citizens Advisory Committee; Greater Golden Hill Community Planning Group; Greater North Park Community Planning Group, Southeastern San Diego Community Planning Group. Potential impacts are unknown at this time but will be identified as part of the planning process for the grant projects.

Anderson

Aud. Cert. 2900663.

Staff: Tait Galloway - (619) 533-4550  
Shannon Thomas - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- \* ITEM-103: Proposition 1C – Transit Oriented Development and Infill Infrastructure Grant Applications. (Centre City, North Park, Southeastern, and Mission George Community Areas. Districts 2, 3, 4, and 7.)

[▶ View referenced exhibit back-up material.](#)

(See Report to the City Council No. 09-026.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-954)

Authorizing the Mayor to support applications to the California Department of Housing and Community Development (HCD) for funding under Proposition 1C - Transit Oriented Development and Infill Infrastructure Grant Programs for housing projects that meet HCD eligibility criteria;

Authorizing the Mayor to provide a letter of legislative support for the applications of the 15<sup>th</sup> and Commercial Program, 9<sup>th</sup> and Broadway, The Boulevard at North Park, Village at Market Creek, Cedar Gateway, and Archstone Mission Gorge;

Authorizing the Mayor to take all necessary actions to secure funding from HCD for the infrastructure improvement projects;

Authorizing the City Comptroller to accept funds if grant funding is secured;

Authorizing the City Comptroller to establish a special interest-bearing fund for the grant funds;

Declaring that this activity (legislative support for Proposition 1C Fund applications) is not a "project" and is therefore not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3). Development proposals which these funds would be used for have been, or will be, subject to CEQA review.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-103: (Continued)

**STAFF SUPPORTING INFORMATION:**

On January 30, 2009, the California Department of Housing and Community Development (HCD) issued a Notice of Funding Availability (NOFA) for the second round of both the Transit Oriented Development (TOD) and Infill Infrastructure Grant (IIG) programs. In this round, the state will award approximately \$95 million in TOD funding and \$197 million in IIG funding.

While applicants are not required to obtain the City's support to apply for 1C funds, additional points are awarded to projects with local support. As a result, the City issued a memo on February 19, 2009, requesting that any developer applying for a letter of support submit a project summary and self scoring worksheets. Applications were reviewed by the Infrastructure Bond Task Force, formed in 2006 in response to the passage of the State Infrastructure Bonds (Props IB-IE). The Bond Task Force recommends that the City support all of the projects that submitted applications. Projects include the following:

TOD projects (maximum score = 380 points):

- **The Village at Market Creek** - Jacobs Center for Neighborhood Innovation (Trolley Residential = 313 points; Northwest Village = 323 points)
- **9<sup>th</sup> and Broadway** - BRIDGE Housing (300 points)
- **15<sup>th</sup> and Commercial** - St. Vincent de Paul (357 points)
- **The Boulevard at North Park** - Community Housing Works (334 points)

IIG projects (maximum score = 250):

- **15<sup>th</sup> and Commercial** - St. Vincent de Paul (235 points)
- **Cedar Gateway** - ROEM Corporation (240 points)
- **Archstone Mission Gorge** (203-240 points) depending on availability of additional financing

**FISCAL CONSIDERATIONS:**

This action will not result in any fiscal impacts to the City at this time.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-103: (Continued)

**STAFF SUPPORTING INFORMATION:** (Continued)

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- February 26, 2008, Council approved Resolution (R-303434) authorizing the Mayor to support the following TOD projects: 15<sup>th</sup> and Commercial, Comm22, 7<sup>th</sup> and Market, 1050 B.
- April 1, 2008, Council approved Resolutions (R-303540 and R-303541) authorizing the Mayor to support the following Infill Infrastructure Projects; the East Village Sub-District Planning Area, 7<sup>th</sup> and Market, Ballpark Village, CentrePoint, and Comm22.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On February 19, 2009, a memo was issued to City Council offices, the City's Redevelopment Department, Centre City Development Corporation, and Southeastern Development Corporation, outlining the process for obtaining a legislative letter of support and requesting that interested parties be notified of the process.

Another memo was issued on February 20, 2009, from the City Planning and Community Investment Department directly to housing developers.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

St. Vincent de Paul Management, ROEM Corporation/Squirre Properties, Jacobs Foundation/McCormack Baron Salazar, BRIDGE Housing Corporation, Community Housing Works and Archstone.

Anderson/Nelson

Staff: Amy Benjamin - (619) 533-6525  
Shannon Thomas - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-104: Picnic People Day.

[▶ View referenced exhibit back-up material.](#)

**COUNCILMEMBER DEMAIO'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-930)

Recognizing Picnic People for its commitment to economic growth and community service;

Proclaiming March 25, 2009, to be "Picnic People Day" in the City of San Diego.

\* ITEM-105: Colon Cancer Awareness Month.

[▶ View referenced exhibit back-up material.](#)

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-974)

Proclaiming March 2009 to be "Colon Cancer Awareness Month" in the City of San Diego, and encouraging all members of the public to learn more about how to protect themselves from this deadly disease.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

\* ITEM-106: Gastroenterology Nurses and Associates Day.

[▶ View referenced exhibit back-up material.](#)

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-973)

Proclaiming March 25, 2009, to be "Gastroenterology Nurses and Associates Day" in the City of San Diego, and encouraging all members of the public to learn more about how these medical professionals can help screen for and prevent colon cancer.



ADOPTION AGENDA, DISCUSSION, HEARINGS

NOTICED HEARINGS:

ITEM-330: Ratification of the 2009 San Ysidro Project Area Committee (PAC) Election and Adoption of the Amended and Restated Procedure for Formation and Election of the Project Area Committee for the San Ysidro Redevelopment Project Area. (San Ysidro Community Area. District 8.)

[▶ View referenced exhibit back-up material.](#)

**STAFF'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2009-944)

Finding the election results of March 4, 2009, with respect to the Project Area Committee (PAC) for the San Ysidro Redevelopment Project, are valid and binding in accordance with the Formation Procedure adopted by Resolution No. R-304593, and that all relevant provisions of the Formation Procedure were followed;

Declaring that the PAC, including those persons who received the highest number of votes in their respective categories and listed on the City Clerk's Office's verification of election results attached as Exhibit A, is hereby approved as constituting a representative PAC for the San Ysidro Redevelopment Project;

Declaring that this activity is not a "project" and is therefore not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

Subitem-B: (R-2009-945)

Adopting the Restated Formation Procedure set forth in attached Exhibit A;

Authorizing and directing the Redevelopment Agency of the City of San Diego (Agency), through its staff and consultants, to implement the Restated Formation Procedure in the manner required by law;

Declaring that this activity is not a "project" and is therefore not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-330: (Continued)

**STAFF SUPPORTING INFORMATION:** (Continued)

On January 13, 2009, the City Council approved Resolution No. 304593, "Procedure for Formation and Election of a Project Area Committee for the San Ysidro Redevelopment Project Area" ("PAC Procedures"). Subsequently, a PAC election was conducted on March 4, 2009. The proposed actions under this item will allow for the ratification of the 2009 San Ysidro Project Area Committee ("PAC") Election and adoption of the Amended and Restated Procedures for the San Ysidro Redevelopment Project Area ("Project Area").

Pursuant to State Law, a public notice was published in the January 14, 2009, issue of the Daily Transcript, two weeks prior to the PAC information meeting, and at least 30 days prior to the PAC election. On March 4, 2009, the San Ysidro PAC Election ("Election") took place at the San Ysidro Civic and Recreation Center located at 212 West Park, between the hours of 6 p.m. - 8 p.m. The results of the Election are herein included as Exhibit A.

The proposed Amended PAC Procedures clarify the filling of vacancies for all categories of the PAC after formation of the PAC. Section 603 of the original PAC Procedures (see Exhibit B) were amended to require that each seat remain vacant until a qualified candidate is selected by a majority vote of the then sitting members of the PAC. There are no other proposed changes to the PAC Procedures. The Amended and Restated PAC Procedures are herein included as Exhibit C.

FISCAL CONSIDERATIONS: None with this action.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On April 16, 1996, Council approved the San Ysidro Redevelopment Project Area. On January 13, 2009, Council approved Resolution No. R-304593, "Procedure for Formation and Election of a Project Area Committee for the San Ysidro Redevelopment Project Area."

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-330: (Continued)

**STAFF SUPPORTING INFORMATION:** (Continued)

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On September 16, 2008, the San Ysidro Community Planning Group unanimously recommended (10-0) to form a PAC.

Election Notices for the March 4, 2009, PAC Election were posted in several locations throughout the Project Area. The Election Notice was also mailed to all known residents and property owners within the Project area.

KEY STAKEHOLDERS AND PROJECTED IMPACTS

The San Ysidro Community.

Weinrick/Anderson

Staff: Sam Johnson - (619) 236-6265  
Kevin J. Reisch - Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

## NOTICED HEARINGS: (Continued)

ITEM-331: 8111 Camino Del Oro Tentative Map, Project No. 152137. Appeal of a decision by the Planning Commission to approve an application for a Coastal Development Permit and Tentative Map to convert 17 existing residential units into 14 condominium units and a waiver to underground existing overhead utilities. The 0.30 acre site is located at 8111 Camino Del Oro between La Vereda and Camino Del Sol. (La Jolla Shores Planned District of the La Jolla Community Plan Area. District 1.)

▶ [View referenced exhibit back-up material.](#)

Matter of the appeal by Cory J. Briggs, Briggs Law Corporation, on behalf of Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development of a decision by the Planning Commission to approve an application for a Coastal Development Permit and Tentative Map to convert 17 existing residential units into 14 condominium units and a waiver to underground existing overhead utilities. The 0.30 acre site is located at 8111 Camino Del Oro between La Vereda and Camino Del Sol.

Should the condominium conversion project be approved, tenants may be required to vacate the premises. No units may be sold in this building unless the conversion is approved by the city and until after a public report is issued by the Department of Real Estate. Each tenant has the exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

If you are an existing tenant within this project, you may have rights to certain benefits as outlined in San Diego Municipal Code Section 144.0503. To learn more information regarding these benefits, please contact the Housing Commission at (619) 578-7580, or find the details on their website at: <http://www.sdhc.net/haotherprog1h.shtml>.

This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) on March 28, 2008. An appeal of the CEQA determination was previously made and the City Council denied the CEQA appeal on September 9, 2008. The scope of the subject hearing only includes the project, and not the environmental determination.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: (Continued)

The final decision by the City of San Diego is not appealable to the California Coastal Commission. If you want to receive a Notice of Final Action, you must submit a written request to the City Project Manager listed above.

**STAFF'S RECOMMENDATION:**

Take the following action:

Granting or denying the appeal and upholding or overturning the Planning Commission's decision to approve Tentative Map No. 538143 and Coastal Development Permit No. 538144 including the request to waive the requirement to underground existing overhead utilities to convert eight existing residential units to condominiums, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolution according to Section 40 of the City Charter.

**OTHER RECOMMENDATIONS:**

Planning Commission on February 5, 2009, voted 6-0-1 to approve Tentative Map No. 538143, Coastal Development Permit No. 538144, and waive the requirement to underground existing overhead utilities.

Ayes: Otsuji, Ontai, Naslund, Smiley, Golba, Lydon

Nays: None

Not present: Griswold

On June 24, 2008, the La Jolla Shores Permit Review Committee voted 5-0-0 to approve the project with the reduction of units to fourteen, and to maintain twenty one parking spaces. On July 8, 2008, the La Jolla Shores Community Planning Association voted to accept the committee recommendation with a vote of 11-0-1.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: (Continued)

**STAFF SUPPORTING INFORMATION:**

REQUESTED ACTION:

Appeal of the Planning Commission's decision to approve Coastal Development Permit No. 538144, Tentative Map No. 538143 and waive the requirement to underground existing overhead utilities to convert seventeen existing residential units to fourteen residential condominiums at 8111 Camino Del Oro, within the La Jolla Shores Planned District.

STAFF RECOMMENDATION:

**Deny** the appeal and uphold the Planning Commission's decision to **approve** the Coastal Development Permit and Tentative Map, including the request to waive the requirement to underground existing overhead utilities.

EXECUTIVE SUMMARY:

Coastal Development Permit No. 538144, Tentative Map No. 538143, including the request to waive the requirement to underground existing overhead utilities, to convert seventeen existing residential units to fourteen condominiums was approved by the Planning Commission and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 1). This is a project appeal and not an environmental appeal; therefore, the environmental issues raised are not relevant to this appeal. The project was determined to be exempt from review under the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15301 on March 28, 2008. An appeal for the CEQA determination was previously made and the City Council denied the CEQA appeal on September 9, 2008 (R304104).

Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code Sections which are not CEQA-related and may be addressed through this project appeal. These codes sections and Staff's responses are contained below:

**SDMC Sections 125.0440(a)-(h):** These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempts condo conversions from six of the eight standard Tentative Map findings.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: (Continued)

**STAFF SUPPORTING INFORMATION:** (Continued)

Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) apply is incorrect. The two findings that do apply are described below.

**SDMC Section 125.0440(b):** *"The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code."* This project has been reviewed by Staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although the project does not comply with the current requirements for new construction, the project is allowed to maintain their current configuration because no additional units or expansion are proposed and it is considered previously conforming for density and development standards.

**SDMC Section 125.0440(h) and California Government Code Section 66412.3:** *"The decisionmaker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources."* This condominium project was approved by the Planning Commission, who was the decisionmaker required to make this finding. Staff believes the intent of this required finding is to respond to "leapfrog" development and to provide necessary public facilities for additional housing in communities. In this instance there is no net loss or gain of housing units, therefore, Staff believes this appeal point is not valid.

**SDMC Sections 142.1304 and 142.1305:** These sections describe the requirements for approving a variance or waiver from the City's inclusionary housing requirements. The project would comply with the City's requirements either by paying an in-lieu fee or by providing onsite affordable housing. This project is not requesting a variance or waiver from the inclusionary housing requirements; therefore, these code sections are not relevant to this approved condominium conversion project.

The appeal also asserts that the Housing Element of the City's General Plan has become invalid due to the City's failure to revise it lawfully and in a timely manner. The current Housing Element was adopted by the City Council on December 5, 2006, and certified by the U.S. Department of Housing and Urban Development on February 5, 2007. This project was approved after the certification of the most recent Housing Element update. A 2007 California appeals court case addressed the question about whether a housing element updated beyond time periods identified in Government Code Section 65588 is invalid and determined that it was not. Therefore, the City's Housing Element has never been considered invalid and would not be grounds for denial of this project.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: (Continued)

**STAFF SUPPORTING INFORMATION:** (Continued)

FISCAL CONSIDERATIONS:

None. All costs associated with the processing of this project are paid by the applicant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On June 24, 2008, the La Jolla Shores Permit Review Committee voted 5-0-0 to approve the project with the reduction of units to fourteen, and to maintain twenty one parking spaces. On July 8, 2008, the La Jolla Shores Community Planning Association voted to accept the committee recommendation with a vote of 11-0-1.

On February 5, 2009, the Planning Commission voted 6-0-1 to approve the project.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Owners: La Jolla Beach and Tennis Club Partners CLP, Applicant: Leppert Engineering Corp.; Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Broughton/Anderson/HD

**NOTE:** This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301 (Existing facilities).

Staff: Helene Deisher – (619) 446-5223  
Marianne Greene – Deputy City Attorney

**NOTE:** This item is not subject to the Mayor's veto.

**CLOSED SESSION NOTICES, DISCLOSURE, AND PUBLIC COMMENT**

In accordance with the San Diego City Council Permanent Rule for Noticing and Conduct of Closed Session Meeting, adopted on February 28, 2005, this portion of the agenda is reserved for City Attorney comment, public comment, and City Council discussion of the content of the Closed Session Agenda. **Public testimony for the Closed Session Agenda will be taken during the open session meeting. The Closed Session will commence immediately following the conclusion of the open session meeting.**

The Closed Session Agenda is separately available in the Office of the City Clerk and also posted at the same locations as the Open Session Agenda, including the City internet address.

**NOTE:** Members of the public wishing to address the City Council on any item on the Closed Session Agenda should reference the Closed Session item number from the Closed Session Docket on the speaker slip. Speakers may speak “in favor” or “in opposition” to the subject.

**Information Item - No Action Required - The City Council shall:**

1) Consider any oral report from the City Attorney or City negotiators; 2) Accept testimony from any member of the public wishing to address the City Council on any item appearing on the Closed Session Agenda; 3) Allow for questions and discussion by Council Members, limited to the facts as disclosed by the City Attorney or City negotiators and the basis or justification for consideration of the matter in Closed Session; 4) Refer matters discussed to Closed Session.

**NON-DOCKET ITEMS**

**ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES**

**ADJOURNMENT**