

000001

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, OCTOBER 14, 2008
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:10 a.m. Council President Peters recessed the meeting at 12:01p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:09 p.m. with all Council Members present. Council President Peters recessed the meeting at 3:18 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:23 p.m. with all Council Members present. Council President Peters recessed the meeting at 4:32 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:37 p.m. with Council Member Maienschein not present. The meeting was adjourned by Council President Peters at 5:54 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Atkins-present
 - (4) Council Member Young-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Maland (dlc/mz)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Biagi called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:35 a.m. – 10:36 a.m.)

PUBLIC COMMENT-2:

Phil Hart commented on campaign and ethics.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. - 10:38 a.m.)

PUBLIC COMMENT-3:

Izean Rim Jr. commented on public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. - 10:41 a.m.)

PUBLIC COMMENT-4:

Gary Hill commented on speech.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:43 a.m. - 10:46 a.m.)

PUBLIC COMMENT-5:

Joy Sunyata commented on citizens' participation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:46 a.m. - 10:48 a.m.)

PUBLIC COMMENT-6:

Jason Mariner commented on a pedicab ordinance.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:48 a.m. - 10:51 a.m.)

PUBLIC COMMENT-7:

Sam Hargrove and Alex Petroy, students from High Tech High, commented on alternative energy and the environment.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:52 a.m. - 10:55 a.m.)

PUBLIC COMMENT-8:

Tom Glasser commented on a forced sale of property.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. - 10:57 a.m.)

PUBLIC COMMENT-9:

David Ross commented on the homeless in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. – 11:00 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council President Peters welcomed Jen Peterson and the students of High Tech High School.

Council President Peters also commended Water Department employees, Michael Smith, David Koonce, and Chris Mondestin, who recently worked together to save co-worker, David Darnell's life.

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

09/02/2008
09/08/2008
09/09/2008

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:07 a.m. – 10:07 a.m.)

MOTION BY MADAFFER TO APPROVE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-31: Robin Stutsman Day.

COUNCILMEMBER MAIENSCHHEIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-365) ADOPTED AS RESOLUTION R-304236

Proclaiming October 14, 2008, as "Robin Stutsman Day" in the City of San Diego in recognition of the many community services she has provided to the citizens of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:07 a.m. – 10:18 a.m.)

MOTION BY MAIENSCHHEIN TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-50: Amendment No. 3 to the Wastewater Operations Management Network (COMNET) Maintenance Services Agreement with Emerson Process Management Power and Water Solutions, Inc.

(See Metropolitan Wastewater Department's 6/18/2008, Executive Summary Sheet; and memorandum from Beryl Rayford and Terrell Breaux dated 9/24/2008.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2009-15) INTRODUCED, TO BE ADOPTED ON TUESDAY,
OCTOBER 28, 2008

Introduction of an Ordinance approving Amendment No. 3 to the COMNET Maintenance Services Agreement with Emerson Process Management Power and Water Solutions, Inc., and authorizing the Mayor, or his designee, to execute Amendment No. 3;

Authorizing the expenditure of a total amount not to exceed \$10,827,036, from the operating budget of the Sewer Fund for Amendment No. 3 as follows:

Phase 8: an amount not to exceed \$947,476 including \$723,552 from Fund No. 41508 and \$223,924 from Fund No. 41506, provided that the City Auditor first furnishes a certificate stating that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Phase 9: \$2,086,704 from FY 2010 Appropriations, contingent upon approval of the FY 2010 Appropriation Ordinance and provided that the City Auditor first furnishes a certificate stating that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Phase 10: \$2,146,294 from FY 2011 Appropriations, contingent upon approval of the FY 2011 Appropriation Ordinance and provided that the City Auditor first furnishes a certificate stating that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Phase 11: \$2,207,671 from FY 2012 Appropriations, contingent upon approval of the FY 2010 Appropriation Ordinance and provided that the City Auditor first furnishes a certificate stating that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Phase 12: \$2,270,889 from FY 2013 Appropriations, contingent upon approval of the FY 2010 Appropriation Ordinance and provided that the City Auditor first furnishes a certificate stating that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Phase 13: \$1,168,002 from FY 2014 Appropriations, contingent upon approval of the FY 2010 Appropriation Ordinance and provided that the City Auditor first furnishes a certificate stating that funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Declaring that the above activity is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301(b) and the activity is not a project and therefore not subject to CEQA pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 9/10/2008, NR&C voted 3 to 0 to approve. (Councilmembers Peters, Faulconer, and Frye voted yea. Councilmember Atkins not present.)

SUPPORTING INFORMATION:

During the 1990's, the Metropolitan Wastewater Department upgraded the existing Point Loma Treatment plant and constructed several new wastewater facilities to meet the requirements of the Clean Water Act. The department automated the facilities and required that data from devices at each facility be exchanged freely and access to the data should not be limited by location. Through a proposal and prequalification process, the low bidder and successful vendor who provided this automation was Emerson Process Management Power and Water Solutions, Inc. (Emerson) (formally Westinghouse). This centralization of data led to significant savings in costs for chemicals, energy and labor. The hardware, software, network, and interface equipment involved in this effort is called the Wastewater Operations Network (COMNET).

The original bid included a two year maintenance contract following successful completion of the system. Through various amendments the City extended the maintenance contract with Emerson. Emerson was the only firm to submit a qualified bid when the City recommended a competitive bid process in July 2003 for the current agreement.

The requested action is to approve Amendment No. 3 to the Maintenance Service Agreement for COMNET with Emerson. Amendment No. 3 extends the Maintenance Service Agreement with Emerson for an additional five years.

The maintenance contract requires the vendor to provide continuing maintenance services on hardware and software for the San Diego Metropolitan Sewage System, specifically for COMNET. This maintenance contract includes hardware and software services, third-party equipment interface and maintenance, as-needed engineering services for system modifications and fine-tuning to increase operating efficiency. Emerson provides excellent customer service. They have demonstrated the technical expertise to maintain, troubleshoot, and reprogram the

COMNET system for operational use and preventive maintenance. Emerson is the only manufacturer of the Distributed Control System (DCS) units that operate the components of the system. All maintenance has been provided from Emerson at their local maintenance service center located adjacent to the Metro Operations Center (MOC). In the event of system breakdowns, Emerson has local staff to assist MWW to prevent or limit operational problems that could lead to sewage spills and potential enforcement action from regulatory agencies.

Since the implementation of the DCS, MWW has monitored the marketplace for vendors who can provide services for the existing Emerson DCS. To date, MWW has been unable to locate firms with the necessary local capabilities who can provide the required services.

The term of Amendment No. 3 will be as follows: Phase 8 (January 2009) \$947,476; Phase 9 (August 2009) \$2,086,704; Phase 10 (August 2010) \$2,146,294; Phase 11 (August 2011) \$2,207,671; Phase 12 (August 2012) \$2,270,889; Phase 13 (August 2013) \$1,168,002.

FISCAL CONSIDERATIONS:

The amount of this action is \$10,827,036 and will be phase-funded over a five year period from the operating budget of the Sewer Fund as follows:

Phase 8: \$947,476 from FY 2009 Appropriations (1/2009 - 7/2009), contingent upon approval of the FY 2009 Appropriation Ordinance and provided that the City Auditor first furnishes a certificate stating that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Phase 9: \$2,086,704 from FY 2010 Appropriations (8/2009 - 7/2010), contingent upon approval of the FY 2010 Appropriation Ordinance and provided that the City Auditor first furnishes a certificate stating that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Phase 10: \$2,146,294 from FY 2011 Appropriations (8/2010 - 7/2011), contingent upon approval of the FY 2011 Appropriation Ordinance and provided that the City Auditor first furnishes a certificate stating that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Phase 11: \$2,207,671 from FY 2012 Appropriations (8/2011 - 7/2012), contingent upon approval of the FY 2012 Appropriation Ordinance and provided that the City Auditor first furnishes a certificate stating that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Phase 12: \$2,270,889 from FY 2013 Appropriations (8/2012 - 7/2013), contingent upon approval of the FY 2013 Appropriation Ordinance and provided that the City Auditor first furnishes a certificate stating that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Phase 13: \$1,168,002 from FY 2014 Appropriations (8/2013 - 12/2013), contingent upon approval of the FY 2014 Appropriation Ordinance and provided that the City Auditor first furnishes a certificate stating that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On December 8, 2003, the City entered into a three-year contract with Emerson Process Management Power and Water Solutions, Inc., (Emerson) to provide continuing maintenance services for COMNET. The original contract is on file in the Office of the City Clerk as Document No. RR-298694.

Near the end of this contract, on November 21, 2006, the City and Emerson mutually agreed to amend the Agreement to extend the contract for two additional years, and increase the Not-to-Exceed amount to \$9,846,769. The original contract is on file in the Office of the City Clerk as Document No. RR-302102. Near the end of this extension, the City reviewed the actual expenses compared to the Not-to-Exceed amount and on April 25, 2008, the City and Emerson mutually agreed to revise the funding for Phases 1 through 6, and subsequently revise the contract value from \$9,846,769 to \$8,418,800. The original contract is on file in the Office of the City Clerk as Document No. C-14569. This action was reviewed and approved by the Natural Resources and Culture Committee on September 10, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not Applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Emerson Process Management Power and Water Solutions, Inc., and Metropolitan Wastewater Department's wastewater treatment plants and pump stations.

Sasaki/Barrett

Aud. Cert. 2900115.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-100: Two actions related to Inviting Bids for the Construction of Sewer and Water Group 747 Project. (Centre City Community Area. District 2.)

(See Engineering and Capital Projects Department's 9/3/2008, Executive Summary Sheet.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2009-227) ADOPTED AS RESOLUTION R-304237

Approving the plans and specifications for the construction of Sewer and Water Group 747 (Project), as advertised by the Purchasing and Contracting Department, on Work Order Nos. 187211/177561;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to establish contract funding phases and execute a construction contract with the lowest responsible and reliable bidder, provided that the City Comptroller first furnishes one or more certificates certifying that funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$3,430,500 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacement, solely for construction, contingency and Project-related costs, provided that the City Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$2,661,866 from Water Fund 41500, CIP-73-083.0, Annual Allocation - Water Main Replacement, solely for construction, contingency and Project-related costs, provided that the City Auditor first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the use of City Forces in Water Fund 41500, CIP-73-083.0, Annual Allocation - Water Main Replacement, solely for the construction of the Project in an amount not to exceed \$275,000;

Authorizing the City Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K094398C)

Subitem-B: (R-2009-228)

ADOPTED AS RESOLUTION R-304238

Declaring that the Addendum to a Mitigated Negative Declaration, Project No. 148447 dated May 13, 2008, for Sewer and Water Group 747 (Project), has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.);

Declaring that the Addendum to a Mitigated Negative Declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Project;

Finding that the revisions to the Project now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, approving said Project 148447 Addendum to a Mitigated Negative Declaration;

Adopting the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the Project as required by this body in order to mitigate or avoid significant effects on the environment, pursuant to California Public Resources Code Section 21081.6;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 9/10/2008, NR&C voted 3 to 0 to approve. (Councilmembers Peters, Faulconer, and Frye voted yea. Councilmember Atkins not present.)

SUPPORTING INFORMATION:

Sewer and Water Group 747 is part of the City of San Diego's continuing Annual Capital Improvements Sewer and Water Main Replacement Program. This project is located in Centre City Community and includes the replacement of approximately 6,481 linear feet of existing 6-inch and 8-inch sewer mains, laterals and manholes originally installed in 1900, and the replacement of approximately 4,965 linear feet of existing 6-inch, 8-inch, 12-inch, and 16-inch Cast Iron (CI) water mains, water services and fire hydrants originally installed in 1900 and 1913. The project also includes installing curb ramps and street slurry seal. The streets affected by construction operations are Front Street, State Street, West Cedar Street, West Fir Street, West Grape Street, India Street, Columbia Street, Kettner Boulevard, West Date Street, and West Hawthorn Street as shown on the Location Map. Traffic control plans for Front Street, State Street, and West Grape Street have been prepared by the City's design consultant. The Contractor will prepare traffic control plans for other streets and will implement them during construction, after review and approval by the City.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego

Goals: 13% Mandatory Subcontractor Participation Goal, 4% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 8% Advisory Participation Goal Other Business Enterprise (OBE).

Other: Prior to award, a Work Force Report, and if necessary, an Equal Opportunity Plan shall be submitted. Staff will monitor the Plan and adherence to the Nondiscrimination Ordinance. EOC staff will evaluate the bidder's compliance with SCOPe. Failure to comply with SCOPe will lead to the bid being declared non-responsive. This contract will be advertised for bids in the San Diego Daily Transcript, the Orange County Register, the City of San Diego's website, and the E-bid Board. In addition, once implemented, the Bidder Registration Program will notify registered participants of bid opportunities. Prior to implementation of the Bidder Registration Program, the City will notify trade associations and eligible firms via fax and/or e-mail.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$6,092,366. Funding of \$3,430,500 will be available from the Enterprise Fund in CIP-44-001.0, Annual Allocation - Sewer Main Replacement, Fund 41506, Sewer, and funding of \$2,661,866 will be available from the Enterprise Fund in CIP-73-083.0, Annual Allocation - Water Main Replacement, Fund 41500, Water, for the construction of Sewer & Water Group 747, for this purpose.

This project cost may be reimbursed approximately 80% by current or future debt financing. This project is scheduled to be phase funded over two fiscal years from FY 2009 to FY 2010. Contingent upon the availability of funds, the City Comptroller will issue an Auditor Certificate for each phase of the project.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTIONS:

The Committee on Natural Resources and Culture on September 10, 2008, consent motion by Council President Peters, second by Councilmember Faulconer. Vote to approve 4-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

During the design phase, Sewer and Water Group 747 was presented to the Centre City Planning Group and Little Italy Community Group on July 13, 2004, and October 2, 2007. Coordination with Centre City Development Corporation (CCDC) has also been conducted and will continue until construction completion, through CCDC's monthly Paradise in Progress Construction Special Events Workshops. Once funding has been approved, the community and CCDC will be notified. Residents and businesses will also be notified at least one (1) month before construction begins, and again ten (10) days before construction begins by the Contractor through hand distribution of notices.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The key stakeholders are identified as the public and municipality. Residents in the area will encounter inconveniences during construction. A community outreach program will be implemented during construction. No new fees or regulations are proposed.

After completion, residents will experience improved reliability of the sewer system and water distribution system.

Boekamp/Jarrell

FILE LOCATION: W.O. #187211/177561

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-101: Contract Change Order No. 1 with Bellingham Marine Industries, Inc., for Lifeguard Headquarters Boat Dock Replacement Project. (Mission Beach Community Area. District 2.)

(See memorandum from Beryl Bailey Rayford dated 10/1/2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-353 Cor. Copy)

ADOPTED AS AMENDED AS
RESOLUTION R-304239

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, Contract Change Order No. 1, dated July 16, 2008, issued in connection with the Contract with Bellingham Marine Industries, Inc., for the Lifeguard Headquarters Boat Dock Replacement Project (Project), amounting to a net increase to the contract price of \$111,717.14;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$11,717.14, from CIP-33-508.0, Lifeguard Headquarters Boat Dock Replacement Project, Fund No. 630221, General Fund Contribution to the CIP Program, and \$100,000 from CIP-33-508.0, Lifeguard Headquarters Boat Dock Replacement Project, Fund No. 10502, Mission Bay Improvement Revenue Fund for Change Order No. 1 with Bellingham Marine Industries, Inc., for the Project;

Declaring that the City of San Diego as Responsible Agency, reviewed and considered the California Coastal Commission's staff report in support of Coastal Development Permit Application Number 6-06-88, pursuant to California

Environmental Quality Act (CEQA) Guidelines Section 15253; that the City adopted the Findings, Recommendations and Conditions contained in the California Coastal Commission report to mitigate any potential environmental effects from the project; therefore, this activity is not subject to CEQA pursuant to CEQA Guidelines Section 15378(c), as this is a subsequent discretionary approval that was adequately addressed in the environmental documents and there is no change in circumstances, additional information, or project change that would warrant additional environmental review. This project was determined by FEMA to qualify for a NEPA Categorical Exclusion under CFR Part 10.8(d)(2)(xv).

STAFF SUPPORTING INFORMATION:

Construction Change Order No. 1 includes extra costs for additional excavation, removal, and transportation of debris, and rip rap that was encountered during concrete pile driving.

It was also requested that the contractor remove and legally dispose of a makeshift floating boat dock the lifeguard staff was using since the existing dock was condemned due to its unsafe conditions. During the construction phase, the Fire and Rescue Department requested a fuel management system be installed at the new Boat Dock. The original design build contract did not include SDG&E permit fees required for the project. Per the permitting agencies, an environmental monitoring and mitigation plan was required to comply with the California Coastal Commission, Army Corps of Engineers, and US and California Fish and Wildlife Services permits.

FISCAL CONSIDERATIONS:

The total project estimated cost is \$2.715 million of which \$2 million is available in Capital Improvements Project 33-508.0, Fund 630221, Contribution from 100/General Fund, and \$715,000, that has been approved to be reimbursed to the City at the completion of construction operations by the Governor's Office of Emergency Services through submittal of expenditure claims. To date, The City of San Diego has received a total of \$643,500. City Council approved a design build contract with Bellingham Marine Industries in an amount not to exceed \$1,948,569. Additional funds in the amount of \$111,717.14 are needed to cover the cost of *changed and unforeseen conditions encountered during the construction phase, and the additional items requested by the City.* Funds for this Change Order are available in CIP-33-508.0.

PREVIOUS COUNCIL AND COMMITTEE ACTIONS:

This project was approved by the City Council in June 2007, AC2700706, and Resolution No. R-302681.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The subject project was presented as an action item before the Mission Bay Park Committee, and received unanimous approval. During the construction phase, all businesses within a one thousand foot radius of the dock were notified.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

The key stakeholders are The City of San Diego Fire & Rescue Department, San Diego Police, Park & Recreation Department, Fish and Wildlife Services and Design Builder Bellingham Marine Industries. After the completion of the dock, our lifeguard, fire, and police staff will have more effective access to the new and improved facilities.

Boekamp/Jarrell

Aud. Cert. 2900223.

Staff: Darren Greenhalgh - (619) 533-6600
Christina Bellows - Deputy City Attorney

FILE LOCATION: CONT- Bellingham Marine Industries, Inc

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

MOTION BY FRYE TO ADOPT THE RESOLUTION WITH THE AMENDMENT THAT WHATEVER ADDITIONAL MONEY THAT IS LEFT OVER, WILL GO BACK TO THE MISSION BAY IMPROVEMENT FUND. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-102: As-Needed Agreement with Katz and Associates for Community Outreach Services. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-251) ADOPTED AS RESOLUTION R-304240

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with Katz and Associates, for As-Needed Consultant Services related to community outreach services for the Engineering and Capital Projects Department in an amount not to exceed \$500,000, under the terms and conditions set forth in the Memorandum of Agreement (MOA);

Authorizing the expenditure of an amount not to exceed \$1,000 from Capital Outlay Fund 302453, CIP-37-064.0, Annual Allocation - Americans with Disability Act (ADA) Improvements for services to Bird Rock Elementary School ADA Upgrades, solely and exclusively, for the purpose of providing funds for the above MOA and related costs, provided that the City Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

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 Sections 15060(c)(3) and 15378(b)(5).

STAFF SUPPORTING INFORMATION:

The City currently does not have the capacity to perform community outreach services for various projects. A qualified and licensed consultant is being retained to provide this service. The City advertised the Contract and issued the Request for Proposal for As-Needed Community Outreach Services Agreement on August 20, 2007, in the San Diego Daily Transcript and in the City's website for bid and contract opportunities.

Six (6) firms were short-listed to be interviewed by the interview/selection panel based on their proposal and evaluation criteria in the request for proposal.

On January 28-30, 2008, the short-listed firms were interviewed by the interview/selection panel. Katz and Associates was selected as one of two firms highly qualified following a competitive selection and procurement process completed in accordance with the policies, procedures and guidelines in the City Council Policy 300-7, Consultant Services Selection, and the City's Administrative Regulation 25.70 on hiring of consultants other than Architects and Engineers. The City will utilize the expertise of Katz and Associates in construction relations, media relations, community outreach, informational materials, in a timely and efficient manner. Katz and Associates has the expertise, experience and personnel necessary to provide the professional services on an as-needed, hourly fee basis. The City will pay Katz and Associates for performance of all Professional Services rendered in accordance with the Agreement, in an amount not to exceed \$500,000. Katz and Associates have no Subconsultants.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego

Goals: 15% Voluntary (MBE/WBE/DBE/DVBE/OBE)

Subconsultant Participation: \$000,000 Certified Firms (00.0%)
\$000,000 Other Firms (00.00%)

Other: Workforce Report Submitted - Equal Opportunity Plan required. Staff will monitor plan, and adherence to the Nondiscrimination Ordinance.

FISCAL CONSIDERATIONS:

The City will pay Katz and Associates for performance of all professional services rendered in accordance with this Agreement, in an amount not to exceed \$500,000. The City agrees to issue at least one Task Order with a minimum aggregate value of \$1,000 to Katz and Associates. Funding for the minimum guarantee amount of \$1,000 will come from CIP-37-064.0, Annual Allocation - Americans with Disability Act (ADA) Improvements, Fund 302453, Capital Outlay, for the purpose of executing this Agreement. Future tasks will be funded from various City Department's budget.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTIONS:

There are no previous actions on this contract.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Katz and Associates is being retained to provide these services for the Engineering and Capital Projects Department.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Upon approval of the Agreement, Katz and Associates could receive up to \$500,000.

Boekamp/Jarrell

Aud. Cert. 2900150.

Staff: James Nagelvoort - (619) 533-5110
Pedro De Lara, Jr. - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-103: Greater Golden Hill Banner District Program. (Greater Golden Hill Community Area. District 8.)

COUNCILMEMBER HUESO'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-419) ADOPTED AS RESOLUTION R-304241

Establishing the Greater Golden Hill Banner District;

Declaring that this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) of the State CEQA Guidelines.

SUPPORTING INFORMATION:

This is a request to approve a resolution to establish a new Greater Golden Hill Banner District. The new District will be limited to the Greater Golden Hill Planning Area. Banners shall be permitted along the commercial corridors of: 25th Street and 28th Street, as well as the entrance

points to the community located at: 19th and C Street, 19th and Broadway, 22nd and F Street, 30th and Broadway, 30th and A Street, and 26th Street between Pershing and Russ Blvd. The project will also be reviewed by the Golden Hill CDC and Golden Hill Planning Group 12 months after installation.

FISCAL CONSIDERATIONS:

Golden Hill Community Development Corporation will pay for costs associated with processing this District.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Greater Golden Hill CDC and the Greater Golden Hill Planning Group both support the banner district.

Jurado-Sainz/Rodriguez

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-104: Application for Funding to Conduct Cactus Wren Habitat Restoration at Black Mountain Open Space Park Under the Wildlife Habitat Incentives Program. (Black Mountain Ranch Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-259) ADOPTED AS RESOLUTION R-304242

Authorizing the Mayor, or his designee, for and on behalf of the City, to make an application to the Wildfire Habitat Incentives Program, a cost-sharing program

administered by the Natural Resources Conservation Service of the United States Department of Agriculture for the Black Mountain Open Space Park Cactus Wren Habitat Restoration (Project);

Authorizing the Mayor, or his designee, to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the Project;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend funds up to \$73,128 for the purposes of the Project, contingent upon receipt of a fully executed agreement;

Authorizing the City Auditor and Comptroller to establish a special interest bearing account for the federal funds if secured;

Declaring that this activity is categorically exempt from California Environmental Quality Act (CEQA) pursuant to State Guidelines Section 15307.

STAFF SUPPORTING INFORMATION:

The goal of this action is to secure federal financial support for uplands habitat restoration at Black Mountain Open Space Park. Federal funds are available under the Wildlife Habitat Incentives Program (WHIP) for the creation of high quality wildlife habitat. If funded, the project will focus on converting invasive, non-native grasslands into the native habitat necessary to support the Cactus Wren. This area was chosen for restoration because of the highly endangered, precarious state of the Cactus Wren; recent fires have destroyed much of the birds' habitat in the region. The scope of work includes site preparation, plant acquisition, planting native plants, watering, weed control/plant establishment and monitoring.

The Friends of Los Peñasquitos Canyon will partner with the City of San Diego on this project, providing volunteer hours for the project match. Volunteer work will include GIS-based habitat mapping and habitat restoration.

FISCAL CONSIDERATIONS:

WHIP is a cost-sharing program that provides 75% of eligible project costs. This proposal includes a match of \$4,500 from the Fiscal Year 2009 Black Mountain Open Space Park operating budget for invasive plant control, plus an in-kind contribution in volunteer work, which is eligible toward the cost-sharing program.

Subject to approval, this action will provide up to \$73,128 in federal funds for habitat restoration on land owned by the City of San Diego. It does not impose additional requirements for operations or maintenance costs outside of the project proposal.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This project is supported by the Black Mountain Citizen Advisory Committee, the local Chapter of the California Native Plant Society and the Friends of Los Peñasquitos Canyon.

STAKEHOLDERS AND PROJECTED IMPACTS: Not applicable.

LoMedico/Heap

Staff: Carol Wood - (619) 525-8217
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-105: Easement Vacation in a Portion of Lot 19 of Map No. 159. (Encanto Neighborhoods and Southeastern Community Areas. District 4.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-147) ADOPTED AS RESOLUTION R-304243

Declaring that the slope easement located within Lot 19 of Map No. 159, as more particularly described in the legal description marked as Exhibit "A," and shown

on Drawing No. 20744-B, marked as Exhibit "B," is ordered summarily abandoned;

Declaring that the City Clerk shall cause a certified copy of this Resolution, with attached exhibits, attested by her under seal, to be recorded in the Office of the County Recorder only after the following has occurred:

Prior to recordation of the slope easement vacation Resolution and prior to the issuance of any building or construction permits, an as-graded geotechnical report addressing Drawing No. 34427-D shall be submitted by Bayview Baptist Church and approved by the Geology Section of the City of San Diego's Development Services Department. The as-graded report must verify, to the satisfaction of the City, that the slopes adjacent to 61st Street have been stabilized through buttressing and clearly state that the slopes within the subject property adjacent to 61st Street have a factor of safety of 1.5 or greater with respect to gross and surficial slope stability.

From and after the date of recordation of this Resolution, the abandoned slope easement shall no longer constitute a public service easement. Upon such recordation, the abandonment is complete;

Finding that the abandonment of the slope easement is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301;

Finding that the issuance of any construction or building permits necessary to authorize the construction of slope buttressing as explained herein falls within the scope of the Mitigated Negative Declaration (MND), finalized on or about November 17, 2006, prepared for the Bayview Baptist Church, Project No. 73554, which was certified and adopted by the City of San Diego's Planning Commission on December 14, 2006, by Resolution No. 4190-PC.

It is, therefore, not a separate project under the California Environmental Quality Act (CEQA) Guidelines Section 15060(c)(3);

Finding that the information contained in the Bayview Baptist Church MND, Project No. 73554, including any comments received during the public review process, has been previously reviewed and considered and it is determined that this subsequent discretionary approval of this slope easement abandonment does not involve change in circumstances, project changes, or new information of substantial importance which would warrant any additional environmental review.

STAFF SUPPORTING INFORMATION:

This project is located in the Encanto Neighborhoods, Southeastern Community Plan area in Council District 4, on the west side of 61st Street south of Imperial Avenue. This project consists of vacating a portion of a slope easement that was granted to the City over five years ago at no cost to the City per document recorded July 29, 1976, as F/P 76-241386. The easement has not been used for the purpose for which it was dedicated for five consecutive years, and the grading plans for a new sanctuary, chapel, and classroom building for Bayview Baptist Church necessitate re-grading the site to eliminate the slope. There is no present or prospective public use of the existing easement in its present location.

FISCAL CONSIDERATIONS:

There are no fiscal impacts in connection with this action. All costs are being paid by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Although no Community Planning Group recommendation is legally required, this project was routed to the Community Planning Group and no comments were received.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Bayview Baptist Church

Broughton/Anderson

Staff: Gerri Bollenbach - (619) 446-5417

Shirley R. Edwards – Chief Deputy City Attorney

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

FILE LOCATION: F-10298

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-106: Easement Grant to San Diego Gas & Electric Company (SDG&E) for Electrical Utility Switch. (Rancho Peñasquitos Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-394) ADOPTED AS RESOLUTION R-304244

Authorizing the Mayor, or his designee, to execute for and on behalf of the City of San Diego, an Easement Deed in favor of SDG&E;

Authorizing the City Comptroller to collect and deposit \$4,090 into Fund 100; Revenue Account No. 77438.

STAFF SUPPORTING INFORMATION:

San Diego Gas & Electric Company (SDG&E) proposes to install a pad-mounted switch partly within franchise and partly within the easement area, consisting of 47.00 square feet. The purpose of the project is to improve the capacity and reliability of SDG&E's electric service.

FISCAL CONSIDERATIONS:

A \$1,590 processing fee and \$2,500 for Fair Market Value of the easement will be deposited into Fund 100; Revenue Account No. 77438.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDS AND PROJECTED IMPACTS (if applicable):

The purpose of the facility is to improve the capacity and reliability of electric service to local residents.

Barwick/Anderson

Staff: Steve Geitz - (619) 236-6311
Todd Bradley - Deputy City Attorney

FILE LOCATION: F-10299

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-107: Retention of Latham & Watkins, LLP for Legal Services for the Case *City of San Diego v. San Diego City Employees Retirement System, San Diego Superior Court Case No. 37-2007-00081912-CU-WM-CTL*.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-418) ADOPTED AS RESOLUTION R-304262

Authorizing the City Attorney to execute an Agreement, on behalf of the City of San Diego, to engage Latham & Watkins LLP as Outside Counsel for the sole purpose of performing a legal analysis of the issues in the lawsuit entitled *City of San Diego v. San Diego City Employees Retirement System, San Diego Superior Court Case No. 37-2007-00081912-CU-WM-CTL*, for an amount not to exceed \$50,000;

Authorizing the City Comptroller to expend up to \$50,000 and to allocate the costs on an FTE basis.

SUPPORTING INFORMATION:

\$50,000 has been approved for this matter in Closed Session.

In the Closed Session Meeting of March 10, 2008, the City Council voted on Item CS-1 *City of San Diego v. San Diego City Employees Retirement System, San Diego Superior Court Case No. 37-2007-00081912-CU-WM-CTL*, to approve retention of Latham & Watkins to address certain legal issues. The motion was made by Councilmember Faulconer and the second by Councilmember Frye. The motion passed 5 to 0 with Council President Pro Tem Madaffer absent and Councilmembers Atkins and Maienschein recused.

FISCAL CONSIDERATIONS:

The City shall compensate Latham & Watkins LLP based on its hourly rates for consulting services. This request has a not-to-exceed amount of \$50,000 and will be allocated using an FY 2009 FTE Allocation Table.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This is the initial request for approval of services for the above-listed matter. The firm of Latham & Watkins LLP previously has provided other legal services to the City.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Latham & Watkins LLP

Tomanek

Aud. Cert. 2900237.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:50 p.m. – 5:54 p.m.)

MOTION BY HUESO TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-recused, Young-yea, Maienschein-recused, Frye-yea (recused, but voting under the Rule of Necessity), Madaffer-recused, Hueso-yea.

* ITEM-108: Settlement of Property Damage Claim of Merle W. Richman and Susan T. Tran.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-336) ADOPTED AS RESOLUTION R-304245

Authorizing the Mayor to pay the total sum of \$96,042.42 in the settlement of each and every claim against the City, its agents and employees, resulting from the property damage claim of Merle W. Richman and Susan T. Tran;

Authorizing the City Auditor and Comptroller to issue one check in the amount of \$96,042.42, made payable to Merle W. Richman and Susan T. Tran;

Authorizing the expenditure of an amount not to exceed \$96,042.42 from Metropolitan Wastewater Department Fund 41506, Sewer Revenue Fund, solely and exclusively, for the purpose of providing funds for the full settlement of the above-mentioned lawsuit and of all claims.

STAFF SUPPORTING INFORMATION:

The proposed settlement would resolve all claims arising from a sewer backup which occurred on March 27, 2007.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Metropolitan Wastewater Fund.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This item was considered in Closed Session on September 9, 2008, the City Council approved the settlement amount of \$96,042.42. City Council voted 8 to 0 with no members absent. The motion was made by Council President Peters with a second by Councilmember Hueso.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Bych/Lewis

Aud. Cert. 2900240.

Staff: Charles Hopper - (619) 533-6555
Christine M. Leone – Chief Deputy City Attorney

NOTE: The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-109: Appointments to the Sustainable Energy Advisory Board.

(See memorandum from Mayor Sanders dated 9/29/2008, with resumes attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-425) ADOPTED AS RESOLUTION R-304246

Council confirmation of the following appointments by the Mayor of the City of San Diego, to serve as members of the Sustainable Energy Advisory Board, for terms ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Isam Hasenin (Rancho Peñasquitos, District 1) (Replacing James Callaghan, who is not seeking reappointment)	At-Large Alternate No. 1	March 1, 2009

Alison Whitelaw (South Park, District 3) (Replacing Vic Ryder, who is not seeking reappointment)	At-Large Alternate No. 2	March 1, 2009
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FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-110: Appointments to the Small Business Advisory Board.

(See memorandum from Mayor Sanders dated 9/29/2008, with resumes attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-424) ADOPTED AS RESOLUTION R-304247

Council confirmation of the following appointments by the Mayor of the City of San Diego, to serve as members of the Small Business Advisory Board, for terms ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Edward Barbat (Mission Hills, District 2) (Replacing Jesse Navarro, who has resigned)	Representative with Legal Expertise	July 1, 2009

Dr. Ruben Garcia (Chula Vista) (Replacing George Chandler, who has resigned)	Small Business Administration District Director	July 1, 2010
Michelle Gray (San Carlos, District 7) (Replacing Richard Sims, who is termed out)	Small Business Owner	July 1, 2010
Tom Woolway (Rancho Bernardo, District 5) (Replacing Judy Preston, who has resigned)	Representative with Financial Lending Expertise	July 1, 2009

Declaring that pursuant to Council Policy 000-13, for purposes of deliberation and consideration of appointment, it is determined that Dr. Ruben Garcia is a resident of San Diego County, but not the City of San Diego, and has unique qualifications to serve as a member of the Small Business Advisory Board, therefore, a conscious exception to Council Policy 000-13 is hereby declared.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-111: Appointment to the San Diego City Employees' Retirement System Board of Administration.

(See memorandum from Mayor Sanders dated 9/29/2008, with resume attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-422) ADOPTED AS RESOLUTION R-304248

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the San Diego City Employees' Retirement System Board of Administration, for a term ending as indicated:

<u>NAME</u>	<u>TERM ENDING</u>
Ray Ellis (Carmel Valley, District 1) (Replacing George Murray, who is not seeking reappointment)	March 31, 2011

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-112: Appointment to the Board of Building Appeals and Advisors.

(See memorandum from Mayor Sanders dated 9/29/2008, with resume attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-420) ADOPTED AS RESOLUTION R-304249

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Board of Building Appeals and Advisors, for a term ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Gary Bousquet (Scripps Ranch, District 5) (Replacing Lyle Gabrielson, who has resigned)	Civil Engineer	March 1, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-113: Appointment to the International Affairs Board.

(See memorandum from Mayor Sanders dated 9/29/2008, with resume attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-421) ADOPTED AS RESOLUTION R-304250

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the International Affairs Board, for a term ending as indicated:

<u>NAME</u>	<u>TERM ENDING</u>
Pamela Thorsch (North Park, District 3) (Replacing Scott Maloni, who has resigned)	March 1, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-114: Captain William G. Edwards Day.

MAYOR SANDERS' AND COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-310) ADOPTED AS RESOLUTION R-304251

Commending and thanking Captain William G. Edwards for his service to the San Diego Police Department;

Proclaiming September 10, 2008, to be "Captain William G. Edwards Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-115: Wakeland Housing and Development Corporation Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-309) ADOPTED AS RESOLUTION R-304252

Commending the Wakeland Housing and Development Corporation for the opportunities it has provided many San Diegans and congratulating it on its 10th anniversary;

Proclaiming September 24, 2008, to be "Wakeland Housing and Development Corporation Day" in the City of San Diego.

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for the Regular Meeting of Tuesday, October 14, 2008

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FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-116: San Diego Automotive Museum Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-343) ADOPTED AS RESOLUTION R-304253

Congratulating the San Diego Automotive Museum on twenty years of success;

Proclaiming October 11, 2008, to be "San Diego Automotive Museum Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-117: Winnie Hanford Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-275) ADOPTED AS RESOLUTION R-304254

Commending Winnie Hanford for the contributions she has made to the City of San Diego's Kensington community;

Proclaiming September 17, 2008, to be "Winnie Hanford Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

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* ITEM-118: Abbas, Jenson & Cundari Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-327) ADOPTED AS RESOLUTION R-304255

Congratulating Abbas, Jenson & Cundari on its 20th anniversary;

Proclaiming September 20, 2008, to be "Abbas, Jenson & Cundari Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

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* ITEM-119: Afton Miller Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-274) ADOPTED AS RESOLUTION R-304256

Commending and thanking Afton Miller for the contributions she has made to the City of San Diego's Talmadge community;

Proclaiming September 20, 2008, to be "Afton Miller Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-120: Karen Reimus Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-364) ADOPTED AS RESOLUTION R-304257

Proclaiming October 14, 2008, as "Karen Reimus Day" in the City of San Diego in recognition of the many community services she has provided to the citizens of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-121: National Preparedness Month.

COUNCILMEMBER MAIENSCHAINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-328) ADOPTED AS RESOLUTION R-304258

Proclaiming September 2008, as "National Preparedness Month" in the City of San Diego, and encouraging all residents to increase their knowledge and awareness of proper safety measures to follow during any emergency or disaster to better protect themselves, their families, and neighbors.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-122: Kajiro Oyama and Oyama Family Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-398) ADOPTED AS RESOLUTION R-304259

Honoring and commending Kajiro Oyama and his family, for the courage of their convictions, and proclaiming September 24, 2008, to be "Kajiro Oyama and Oyama Family Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-123: Rear Admiral (RDML) Dixon R. Smith Day.

COUNCILMEMBER HUESO'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-390) ADOPTED AS RESOLUTION R-304260

Proclaiming October 10, 2008, to be "RDML Dixon R. Smith Day" in recognition of his tremendous contributions to the San Diego waterfront.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:26 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-330: Authorizing Funds for an Administrative Settlement Agreement Between Department of Labor and San Diego Workforce Partnership, Inc.

MAYOR SANDERS' RECOMMENDATION:

Take the following actions:

(R-2009-471) ADOPTED AS RESOLUTION R-304261

Authorizing the Mayor to approve the first payment of \$67,743.50 towards a Settlement Agreement with the United States Department of Labor related to the audit of the San Diego Workforce Partnership, Inc., for the period of July 1, 2002 through June 30, 2004, and the subsequent liability to the City of San Diego as a result of the audit findings;

Authorizing the City Comptroller to expend \$67,743.50 from the Citywide Program Expenditures Department (Fund 100);

Directing the City Attorney to prepare the required resolutions and documents;

Authorizing the Mayor and the City of San Diego's representatives to the San Diego Consortium Policy Board, Councilmembers Hueso and Young, to work with the County of San Diego to create a joint plan to seek reimbursement from the Workforce Partnership for the full liability incurred by both jurisdictions as a result of the settlement.

SUPPORTING INFORMATION:

The San Diego Workforce Partnership was created through a Joint Powers Agreement (JPA) to address the needs of displaced workers countywide. The San Diego Workforce Partnership uses Federal Workforce Investment Act grant funds to facilitate employment related services for local businesses and job seekers through a network of one stop career centers at which 18 to 20 smaller non-profits provide job counseling and other services to 30,000 residents each year. A Policy Board was established by the City and County as the governing body for the JPA. The Policy Board is responsible for receiving Federal dollars and passing them on to the Workforce Partnership to use in support of their programs.

During a two-year audit of the Workforce Partnership, Federal auditors reviewed \$90.3 million in expenditures of Federal funding. The final audit requested the partnership return \$7.7 million in payments as a result of Federal grant rules having been violated. The Partnership successfully negotiated a settlement of \$1.1 million with the United States Department of Labor. Although the

Workforce Partnership is an organization separate from the City of San Diego and the County of San Diego the two jurisdictions are not able to delegate their responsibility for WIA funds. The JPA Agreement requires the City and County to equally split any liability that is incurred.

Settlement payments would be made over a four-year period with the first payment of \$235,487 due on December 1, 2008, and then annual payments of \$300,000 due beginning next August. For the payment due in December, the Workforce Partnership has \$100,000 available which leaves \$135,487 for the City and County to pay. Split equally this means the City's share of the first payment is \$67,743.50. Without a settlement the City and County are jointly liable for the entire \$7.7 million.

Today's action seeks authorization for the City's portion of the first payment to the Department of Labor.

FISCAL CONSIDERATIONS:

The impact is \$67,643.50 to the General Fund. Allocation is in Citywide Program Expenditures Department.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On October 7, 2008, the Council discussed this issue in Closed Session.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The County of San Diego and the San Diego Workforce Partnership.

Caldwell/Goldstone

Aud. Cert. 2900275.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:08 a.m. – 11:28 a.m.)

MOTION BY YOUNG TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-331: Development Services Department Business Process Reengineering (BPR) Study.

(See Report to the City Council No. 08-140.)

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2009-478) ADOPTED AS RESOLUTION R-304263

Accepting the recommendations of the Development Services Department Business Process Reengineering (BPR) report and directing staff to prepare the necessary code and policy changes and bring them forward through the public review process for future City Council consideration;

Directing the City Attorney to prepare the appropriate resolutions and/or ordinances in accordance with Charter Section 40.

STAFF SUPPORTING INFORMATION:

The Mayor commenced Business Process Reengineering (BPR) efforts to improve efficiencies, reduce the cost of City government, and to maximize the services offered to City residents. BPR focuses on significantly streamlining work processes (activities, services or functions) for substantial improvement and reorganizing functional work groups and positions. On July 31, 2006, the City Council adopted Ordinance O-19523, establishing a policy for the implementation of BPR results (Report to City Council No. 06-094).

As part of the FY08 Budget hearing process on May 10, 2007, the Development Services Department (DSD) provided City Council with 133 BPR recommendations (Report No. 07-087) for information purposes. At that time, the Council approved the elimination of 54 positions. Since that time, the department has completed the meet and confer process on 125 of these recommendations. Six additional BPR recommendations are not part of this report and will be brought to City Council for consideration after they have completed the meet and confer process.

DSD worked with 20 outside stakeholders and 130 staff members to develop these recommendations. Seven core function areas were analyzed and recommendations resulting in time savings and efficiencies for project applicants or for the department were identified. Many of the recommendations are a continuation of sound business and government practices established by the City and the department.

Others were the result of benchmarking studies with other government jurisdictions and stakeholder interviews. The 20 public participants were also instrumental in challenging staff and the department to try new approaches.

Many of the recommendations are designed to make DSD processes easier and less costly for homeowner applicants. These include: expanding the range of over-the-counter services; allowing face-to-face secondary reviews of permit applications; implementing an on-line approval process for no-plan permits for simple plumbing, gas, mechanical and electrical projects (such as replacing a water heater or installing a circuit box); and designating a larger class of projects that can be self-certified by authorized professionals, including architects, engineers and landscape architects.

The streamlining will also assist small-business owners by shortening approval times for tenant improvements to commercial buildings. The recommendations also incorporate technological upgrades that make possible the electronic tracking of the permitting process, allowing for greater accountability and eliminating lag time between inspections, and digitalization of building permit plans, allowing them to be accessed by computer.

Once the BPR recommendations are accepted by City Council, DSD will prepare an implementation schedule and strategy working closely with key stakeholders, staff, and project customers. The 12 code and policy changes will be developed and follow the established process for public review and hearing before being scheduled for Council consideration.

When all three phases of this BPR plan are complete, the City will realize savings of more than \$5.5 million annually.

FISCAL CONSIDERATIONS:

Budgetary Impacts: The annualized savings in FY08 related to recommendations of this BPR is estimated at \$5,179,133.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

An informational report on the Department's BPR was provided to City Council as part of the Department's Budget Hearing on May 10, 2007 (Report No. 07-087).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Department included the Labor Union (MEA) in the BPR effort, as well as a number of external stakeholders with background and familiarity with the Department's operations. The Department also conducted benchmarking on many aspects of operations with 42 other similar municipalities. In addition, 318 stakeholder interviews were conducted.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The work-related impacts of the 127 recommendations included in this BPR have been appropriately covered through the Meet and Confer process with MEA.

Broughton/Anderson

Staff: Kelly Broughton - (619) 321-3233

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:14 p.m. – 3:18 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-332: Bird Rock Mixed Use, Project No. 87287. An appeal of the Planning Commission approval of a Coastal Development Permit, Site Development Permit, Planned Development Permit, and Tentative Map to construct a three-story, mixed-use development at 5702 La Jolla Boulevard. (La Jolla Community Plan Area. District 1.)

An appeal of the Planning Commission approval of a Coastal Development Permit, Site Development Permit, Planned Development Permit, and Tentative Map to construct a 20,507 square-foot, three-story, mixed-use development consisting of 11 residential units and 7 commercial units, two levels of subterranean parking, and a loading area on a 0.37-acre site, located at 5702 La Jolla Boulevard in Zone 4 of the La Jolla Planned District within the La Jolla Community Planning Area.

(See Report to the City Council No. 08-139.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2009-) DENIED APPEAL AND UPHELD THE
DECISION OF THE PLANNING COMMISSION
TO CERTIFY THE MITIGATED NEGATIVE
DECLARATION, ADOPTED AS
RESOLUTION R-304264

Granting or denying the appeal and upholding or overturning the Planning Commission's decision certifying the Mitigated Negative Declaration, Project No. 87287; and adopting associated Mitigation, Monitoring and Reporting Program;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project;

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

Subitem-B: (R-2009-) DENIED APPEAL AND GRANTED PERMITS
AND TENTATIVE MAP, ADOPTED AS
RESOLUTION R-304265

Granting or denying the appeal and granting or denying Coastal Development Permit No. 277553; Site Development Permit No. 279442; Planned Development Permit No. 546450; and Tentative Map No. 361919;

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

OTHER RECOMMENDATIONS:

Planning Commission on July 17, 2008, voted 4-0-3 to approve the project with the following condition: the applicant is to provide screening off the rear deck to protect the privacy of the property owner.

Ayes: Otsuji, Ontai, Naslund, and Griswold
Not present: Schultz and Smiley
Recusing: Golba

The La Jolla Community Planning Association has recommended denial of this project.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

Appeal of the Planning Commission decision to approve a 20,507 square-foot, three-story, mixed-use development consisting of 11 residential units and 7 commercial units, two levels of subterranean parking and a loading area, located at 5702 La Jolla Boulevard in Zone 4 of the La Jolla Planned District within the La Jolla Community Planning Area.

STAFF RECOMMENDATION:

1. **DENY** the appeal and **CERTIFY** Mitigated Negative Declaration No. 87287 and **ADOPT** associated Mitigation, Monitoring, and Reporting Program; and
2. **APPROVE:** Coastal Development Permit No. 277553; and
3. **APPROVE:** Site Development Permit No. 279442; and
4. **APPROVE:** Planned Development Permit No. 546450; and
5. **APPROVE:** Tentative Map No. 361919.

EXECUTIVE SUMMARY:

On July 17, 2008, the Planning Commission voted 4-0-3 to certify Mitigated Negative Declaration No. 87287 and adopt associated Mitigation, Monitoring, and Reporting Program and approve Coastal Development Permit No. 277553, Site Development Permit No. 279442, Planned Development Permit No. 546450; and Tentative Map No. 361919 as presented in Planning Commission Report No. PC-08-051.

Included in the motion was a condition requiring the applicant to provide screening on the rear deck area to protect the privacy of the adjacent property owner. Resolution No. 4427-PC.

The project is proposing to construct a 20,507 square-foot, three-story, mixed-use development consisting of 11 residential units and 7 commercial units, two levels of subterranean parking, and a loading area on a 0.37-acre site, located at 5702 La Jolla Boulevard in Zone 4 of the La Jolla Planned District within the La Jolla Community Planning Area.

The project requires three separate discretionary actions to develop the site as proposed. The project is located in the Coastal Overlay Zone and therefore, requires a Coastal Development Permit. Section 159.0205 of the San Diego Municipal Code also requires that projects subject to the requirements of a Planned District Ordinance such as the La Jolla PDO, obtain a Site Development Permit. Lastly, the project requires a Planned Development Permit to deviate from the two-story restriction and the requirement to take project access from the alley.

Two appeals have been filed appealing the Planning Commission's 4-0-3 approval. The appellants contend:

1. That both the staff report and the Planning Commission did not analyze key aspects of the two-story restriction in the La Jolla PDO.
2. That both the staff report and the Commission developed highly subjective criteria in discussing a second finding of the PDP: "The proposed development, when considered as a whole, will be beneficial to the community."
3. That the Planning Commission focused its discussion and based its ruling virtually entirely on the aesthetic appearance of drawings of the project submitted by the applicant.
4. That the applicant and Development Services Staff misstated the project's impact on the applicable land use plan and the local PDO, and failed to justify the findings for a Planned Development Permit. Even if a PDP were merited, there is still no basis for making an exception to the two-story limit.
5. That the two-story limit is a central and crucial component of the PDO, separate and apart from the 30-foot height limit. The Commissioners' statements on several occasions indicated that they neither understood the two-story limit, nor gave it any weight in their decision. Instead, they acted as if the only zoning applicable was the 30-foot height limit.

6. That there has been no three-story project approved in the relevant zones since the community-supported PDO was enacted over 20 years ago and this should have carried significant weight with the Commissioners in making their findings.
7. That there are Citywide impacts: This ruling pulls the footing out from under all local zoning laws on height and story limitation, and installs instead the 30' height limit as the sole rule west of I-5.
8. That the findings cannot be made to certify the Mitigated Negative Declaration and the ruling is inappropriate based on the lack of analysis and information presented.

City Staff disagrees with these assertions. The Report to the City Council provides responses to each appeal issue.

FISCAL CONSIDERATIONS:

No cost to the City. The applicant has deposited funds to cover project processing costs.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

No previous City Council action.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On June 5, 2008, the La Jolla Community Planning Association voted 7-4-1 to recommend denial of the project.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Michael and Olga Krambs, Owners
Mark D. Lyon, Inc., Applicant

Broughton/Anderson/MD

LEGAL DESCRIPTION:

Lot 19 and 20 of Block 6, according to Map No. 001527 (APN 301-093-09-00).

Staff: Morris Dye – (619) 446-5201

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:22 p.m. – 4:32 p.m.;
4:37 p.m. – 5:50 p.m.)

Testimony in favor by Joe LaCava, Darcy Ashley, Cindy Thorsen, Mike Costello, Jim Fitzgerald, Robert Collins, Angeles Leira, Joseph Parker, Doug Wheeler, Orrin Gabsch, Sherri Lightner, Portia Wadsworth, Michael McCaughey and Todd Cardiff.

Testimony in opposition by Matt Peterson, Mark Lyon, Michael Krambs, Paul Metcalf, Dan Linn, Scott Wright, Claude Marengo, Marcie Cecil, Thomas Sanger, Olga Krambs, Lewis Palmer, M.D., Kent Hinckley and Rebecca Speaks

MOTION BY YOUNG TO ADOPT THE RESOLUTION IN SUBITEM A TO DENY THE APPEAL AND UPHOLD THE DECISION OF THE PLANNING COMMISSION CERTIFYING THE MITIGATED NEGATIVE DECLARATION AND ADOPTING THE ASSOCIATED MITIGATION, MONITORING, AND REPORTING PROGRAM; ADOPT THE RESOLUTION IN SUBITEM B TO DENY THE APPEAL AND GRANT THE COASTAL DEVELOPMENT PERMIT, SITE DEVELOPMENT PERMIT, PLANNED DEVELOPMENT PERMIT AND TENTATIVE MAP; AND TO MAKE ADDITIONAL FINDINGS TO ADD THE FOLLOWING: 1) HIGH ARTICULATION THAT MINIMIZES BULKINESS AND BOXINESS AND INCLUDES SIGNIFICANT SETBACKS ON THE 3RD STORY; 2) OPENNESS AND A BREAKDOWN OF SCALE ALONG THE STREET EDGE THAT ALLOWS IMPROVED PEDESTRIAN FLOW; 3) USE DESIGN THAT PROTECTS THE INTEGRITY OF THE PLANNED DISTRICT ORDINANCE SINCE IT MAINTAINS A 2-STORY LIMIT AT THE STREET FACE; 3) CREATE ENHANCED LANDSCAPING AS COMPARED TO A 2-STORY PROJECT; 4) USE OF HIGH-QUALITY BUILDING MATERIALS; 5) INCLUSION OF EXTRA PARKING; 5) THE PROJECT MUST CONFORM TO THE DESCRIPTIONS OF BUILDING MATERIALS PROVIDED BY THE APPLICANT; 6) THE APPLICANT MUST PROVIDE A MINIMUM OF A 7-FOOT FULL-SCREEN ON THE REAR DECK AREA TO PROTECT THE PRIVACY OF THE ADJACENT PROPERTY OWNER; AND 7) THE APPLICANT HAS AGREED TO DISPLAY A FORM OF RECOGNITION TO HONOR THE MEMBERS OF THE BIRD ROCK COMMUNITY WITHIN THE DEVELOPMENT AS A CONDITION OF THE PERMITS. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-S500: Ocean View Village, Project No. 96580. Site Development Permit, Vesting Tentative Map and Rezone to construct 143 residential units, 40 commercial units and 24 industrial units, on a 10.4-acre site located at 996 Otay Valley Road. (Otay Mesa Community Plan Area. District 8.)

Matter of approving, conditionally approving, modifying or denying a Site Development Permit, Vesting Tentative Map and Rezone to construct 143 residential units, 40 commercial units, and 24 industrial units, on a 10.4-acre site located at 996 Otay Valley Road. The Site Development Permit is for Steep Hillside, Sensitive Biological Resources and seven Deviations to development regulations for Affordable Housing. The Vesting Tentative Map is for a subdivision for condominium construction. The site was previously regulated under CUP 88-0498 as an Auto Dismantling Center. The property proposes redevelopment from this auto dismantling use to the approved land uses. The project was reviewed in the Affordable Housing Expedite Program and will provide 15 of the residential units as affordable in accordance with the Inclusionary Housing Ordinance.

The Project is located in the AR-1-1 Zone, Airport Influence Area, and Airport Environs Overlay Zone, of the Otay Mesa Community Plan. The Rezone is to change the AR-1-1 Zone to RM-2-4, CN-1-2, and IL-2-1, in accordance with the adopted Robinhood Ridge Precise Plan and Community Plan.

(Continued from the meeting of October 6, 2008, Item 201, at the request of Councilmember Hueso, for further review).

NOTE: Hearing closed. Testimony taken.

STAFF'S RECOMMENDATION:

Adopt the following resolutions in Subitems A, B, and C; and introduce the ordinance in Subitem D:

Subitem-A: R-2009-315)

CONTINUED TO TUESDAY,
OCTOBER 21, 2008

Adoption of a Resolution certifying that the information contained in Addendum to Environmental Impact Report No. 98-0189, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental

Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a Rezone Ordinance, Site Development Permit, and Vesting Tentative Map for Ocean View Village project;

Declaring that pursuant to California Public Resources Code Section 21081 and California Code of Regulations Section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the Office of the City Clerk;

Declaring that pursuant to California Code of Regulations Section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference, with respect to the Project;

Declaring that pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the Project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference.

Subitem-B: (R-2009-316)

CONTINUED TO TUESDAY,
OCTOBER 21, 2008

Adoption of a Resolution certifying the findings, with respect to Site Development Permit No. 320732, which are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Granting Site Development Permit No. 320732 to Melvyn V. Ingalls, Owner/Permittee, sustaining the recommendation of the Planning Commission, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

Subitem-C: (R-2009-317 Cor. Copy 1) CONTINUED TO TUESDAY,
OCTOBER 21, 2008

Adoption of a Resolution certifying findings with respect to Vesting Tentative Map No. 314829 which are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Granting Tentative Map No. 314829 to Melvyn V. Ingalls, Applicant/Subdivider, subject to the attached conditions which are made a part of this resolution by this reference.

Subitem-D: (O-2009-41 Cor. Copy) CONTINUED TO TUESDAY,
OCTOBER 21, 2008

Introduction of an Ordinance changing 10.4-acres located at 996 Otay Valley Road, within the Otay Mesa Community Plan Area, in the City of San Diego, California, from the AR-1-1 zone into the RM-2-4, CN-1-2 and IL-2-1 zones, as defined by the San Diego Municipal Code Sections 131.0406, 131.0502, 131.0603; and repealing Ordinance No. O-10862 (New Series), adopted June 29, 1972, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

OTHER RECOMMENDATIONS:

Planning Commission on July 24, 2008, voted 5-1-1 to recommend that the City Council certifies Addendum No. 96580 to Environmental Impact Report No. 98-0189; adopt the Mitigation Monitoring and Reporting Program; and approve Site Development Permit No. 320732, Vesting Tentative Map No. 314829 and Rezone Ordinance No. O-314830 as presented in Report No. PC-08-085.

Additional recommendations to provide Photovoltaic Panels for either the Residential or Commercial/Industrial area that would meet the Expedite Program requirements of Council Policy No. 900-14, and provide for a reclaimed water service if a reclaimed water service is available in the future.

Ayes: Golba, Naslund, Otsuji, Schultz, Ontai
Nays: Griswold
Not present: Smiley

The Otay Mesa Community Planning Group has recommended approval of this Project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of a new mixed use development consisting of 143 residential units, 40,678 square feet of commercial, and 37,850 square feet of industrial uses on a 10.4-acre site located at 996 Otay Valley Road, within the Otay Mesa Community Planning Area.

STAFF RECOMMENDATION:

Recommend that the City Council certify Addendum No. 96580 to Environmental Impact Report No. 98-0189, adopt the Mitigation, Monitoring and Reporting Program; and approve Site Development Permit No. 320732, Vesting Tentative Map No. 314829 and Rezone Ordinance No. O-314830.

EXECUTIVE SUMMARY:

The Ocean View Village Project is a request for a Site Development Permit, Vesting Tentative Map and Rezone to construct 143 residential units, 40 commercial units, and 24 industrial units, on a 10.4-acre site located at 996 Otay Valley Road. The Project is located in the AR-1-1 Zone, Airport Influence Area, and Airport Environs Overlay Zone, of the Otay Mesa Community Plan. The Site Development Permit is for Steep Hillside, Sensitive Biological Resources and seven Deviations to development regulations for Affordable Housing. The seven Deviations to development regulations are being requested as part of the affordable/in-fill housing and sustainable building regulations for setbacks, street frontage, drive aisle driveway width, retaining wall height, off-street loading spaces, and structure height. The Vesting Tentative Map is for a subdivision for condominium construction. The Rezone is to change the AR-1-1 Zone to RM-2-4, CN-1-2, and IL-2-1, in accordance with the adopted Robinhood Ridge Precise Plan and Community Plan. The site was previously regulated under CUP 88-0498 as an Auto Dismantling Center. The property proposes redevelopment from this auto dismantling use to the proposed land uses. The project was reviewed in the Affordable Housing Expedite Program and will provide 15 of the residential units as affordable in accordance with the Inclusionary Housing Ordinance.

The project has not been controversial and there were no speaker slips in opposition at either of the two Planning Commission hearings. The project was docketed for Planning Commission on July 17th and trailed to July 24th. The Planning Commission recommended the City Council require two conditions; 1) provide photovoltaic panels (solar energy) on the roof for either the Residential or Commercial/Industrial area that would meet the Sustainable Expedite Program requirements of Council Policy 900-14, and 2) a condition to provide for a reclaimed water service if a reclaimed water service is available in the future.

The owner/applicant recommends an alternative to both of the Planning Commission conditions. There is no current reclaimed water service to the project area; therefore staff could not condition the project to connect to a reclaimed water service at this time. There are no Municipal Code provisions that require projects to install photovoltaic panels. The applicant has volunteered to provide 10% of the residential units as Affordable Housing. As an alternative to the condition to provide a future reclaimed water service, the owner/applicant agrees to provide this service for landscaping. As an alternative to the condition to provide photovoltaics, the owner/applicant agrees to build the commercial/industrial structures to LEED standards and impose specified sustainable design and development conditions on the residential portion of the project.

FISCAL CONSIDERATIONS:

All staff costs associated with processing this Project are recovered from a deposit account maintained by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Planning Commission: The Planning Commission recommended the City Council approve the Project on July 24, 2008, by a vote of 5-1-1 with two recommendations: 1) The Project be required to provide Photovoltaic Panels for either the Residential or Commercial/Industrial area that would meet the Expedite Program requirements of Council Policy 900-14; and 2) Add a Condition to provide for a reclaimed water service if a reclaimed water service is available in the future.

Community Planning Group: The Otay Mesa Community Planning Board voted 13-1-1 on September 20, 2006, to recommend approval of the project, with additional landscape recommendations that were incorporated into the design.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Owner: Melvyn V. Ingalls.

Applicant: M. W. Steele Group, Inc.

Broughton/Anderson/DM

NOTE: The City of San Diego, as Lead Agency under California Environmental Quality Act (CEQA) and State CEQA Guidelines has prepared and completed Addendum No. 96580 to Environmental Impact Report No. 98-0189, and the Mitigation, Monitoring and Reporting Program (MMRP) covering this activity.

LEGAL DESCRIPTION:

The Project site is legally described as the southeast *quarter* of the southwest quarter of the northeast quarter of Section 29, Township 18 South, Range 1 West, San Bernardino Meridian, County of San Diego.

Staff: Diane Murbach – (619) 446-5042
Marianne Greene – Deputy City Attorney

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:14 p.m.)

MOTION BY HUESO TO CONTINUE TO TUESDAY, OCTOBER 21, 2008, FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

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REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 5:54 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:54 p.m. – 5:54 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, OCTOBER 13, 2008
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:04 p.m. Council President Peters recessed the meeting at 3:09 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:14 p.m. with Council Member Young not present. The meeting was adjourned by Council President Peters at 5:00 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Atkins-present
 - (4) Council Member Young-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Malañd (sr)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by City Clerk, Liz Maland.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Atkins.

FILE LOCATION: MINUTES

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CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(a):

CS-1 *Deputy City Attorney Association v. City of San Diego*
LA-CE-359

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 14, 2008

DCA Assigned: A. Hersh

The *Deputy City Attorney Association v. City of San Diego* matter is an action filed by the Deputy City Attorney Association for bad faith bargaining and prematurely declaring an impasse. In closed session, the City Attorney will brief the Mayor and the City Council on the status of this matter and request the continued retention of outside counsel to handle this litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:49 p.m. - 3:49 p.m.)

Council President Peters closed the hearing.

CS-2 *Pyatt v. City of San Diego*
San Diego Superior Court Case No. GIC880621-1

Vann v. City of San Diego
San Diego Superior Court Case No. 37-2007-00077983-CU-PO-CTL

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 14, 2008

DCA Assigned: C. Brock

Plaintiffs filed complaints, respectively, for damage to their real property as a result of a City storm drain rupture in 2005. The City Attorney will present settlement proposals for both cases to the Mayor and City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:49 p.m. - 3:49 p.m.)

Council President Peters closed the hearing.

**CS-3 *City of San Diego v. Lexington Insurance Company*
United States District Court case no. 07CV-0475 DMS (NLS)**

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 14, 2008

DCA Assigned: C. Welch

The City's lawsuit claimed that Lexington acted wrongly and in bad faith when it denied a claim by the City for a loss of revenue that resulted after the Monday Night Football game that was scheduled to be played in San Diego during the Cedar fire was moved to Arizona. In closed session, the City Attorney will discuss a settlement offer by Lexington.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:49 p.m. - 3:49 p.m.)

Council President Peters closed the hearing.

**CS-4 *Valerie O'Sullivan v. City of San Diego,*
San Diego Superior Court Case No. GIC 826918; Court of Appeal Case No. 826918**

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 14, 2008

DCA Assigned: G. Schaefer

Following a court trial, a Superior Court Judge rendered a judgment against the City and ordered the City to dredge Children's Pool Beach. The City unsuccessfully appealed the dredging order and the City is in the process of acquiring the necessary federal and state permits to dredge. The City Attorney needs to discuss in closed session with the City Council and the Mayor compliance with the Superior Court's dredging order and related legal issues.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:49 p.m. - 3:49 p.m.)

Council President Peters closed the hearing.

Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code Section 54956.9(b):

CS-5 Number of Potential Cases: Up to 50 (Voluntary Compliance Program Filing)

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 14, 2008

DCA Assigned: W. Chung

In closed session, the Mayor requests that Outside Counsel provide advice relating to the Pension System Changes included in the Voluntary Compliance Program Filing that may affect the pension benefits of employees, retirees and their beneficiaries.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:49 p.m. - 3:49 p.m.)

Council President Peters closed the hearing.

CS-6 Number of Potential Cases: 1

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 14, 2008

DCA Assigned: M. Nuesca

The City is threatened with a taxpayer action to seek restraint of enforcement of San Diego Municipal Code Sections 58.0603 and 58.0606, which prohibit registered sex offenders from being within 300 feet of certain locations and from entering or remaining in certain establishments where children gather. In closed session, the City Attorney will brief the Mayor and City Council on this matter and seek direction from Council on the City's response to the potential plaintiff.

000066

Minutes of the Council of the City of San Diego
for the Regular Meeting of Monday, October 13, 2008

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FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:49 p.m. - 3:49 p.m.)

Council President Peters closed the hearing.

Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code Section 54956.9(c):

CS-7 Number of Potential Cases: 1

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 14, 2008

CDCA Assigned: M. Calabrese

In closed session, the City Council will receive a briefing on the City's potential liabilities and the possible initiation of litigation concerning the San Diego Workforce Partnership.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:49 p.m. - 3:49 p.m.)

Council President Peters closed the hearing.

Conference with Labor Negotiator, pursuant to Government Code Section 54957.6:

CS-8 Agency Negotiator: Scott Chadwick, Jay Goldstone

Employee Organizations: Municipal Employees Association

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 14, 2008

DCA's Assigned: A. Hersh/B. Gersten

Conference with Labor Negotiators regarding negotiated settlement of language and remedy contained in City-MEA Memorandum of Understanding, Article 22, Section 2.B.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:49 p.m. - 3:49 p.m.)

Council President Peters closed the hearing.

ITEM-150: Amendment to the Ethics Commission's Investigative and Enforcement Procedures.

(See memorandum from Ethics Commission dated 8/20/2008; Ethics Commission's 9/2/2008, update of proposed changes; memorandum from Stacy Fulhorst dated 9/26/2008; and memorandum from Guillermo Cabrera and Stacey Fulhorst dated 9/12/2008.)

TODAY'S ACTION IS:

Take the following actions:

(O-2009-) INTRODUCED AS AMENDED, TO BE ADOPTED
TUESDAY, OCTOBER 28, 2008

Amending Chapter 2, Article 6, Division 4, of the San Diego Municipal Code, by amending Sections 26.0402 and 26.0404; adding Section 26.0416; and amending Sections 26.0431, 26.0443, 26.0445, 26.0450, and 26.0455, all relating to the Establishment of the Ethics Commission and to the Ethics Commission's Investigative and Enforcement Procedures;

Directing the City Attorney to prepare the appropriate ordinance in accordance with *Charter Section 40*.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS
COMMITTEE'S RECOMMENDATION:**

On 9/3/2008, Rules voted 5 to 0 to return to the Ethics Commission the recommendations in the staff report included in Sections C1, C2, C4, D2, and D4 related to Probable Cause and Administrative Hearings, as well as Subpoenas, in order for the Commissioners to consider the Rules Committee member comments; and to approve the remaining items listed in the staff report. (Councilmembers Peters, Young, Frye, Madaffer, and Hueso voted yea.)

SUPPORTING INFORMATION:

The proposed amendments to the Municipal Code are reflected in the Ordinance and Strike-Out Ordinance. The proposed amendments are described in detail in the memo from Guillermo Cabrera and Stacey Fulhorst dated September 12, 2008, as well as the memo from Stacey Fulhorst dated September 26, 2008.

The amendments are generally housekeeping and administrative in nature, with the exception of a new provision that, if approved, would make it unlawful to provide false information or documents to the Ethics Commission, as well as changes stating that the Commission's ability to subpoena witnesses applies to both investigations and hearings.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Approved by the Rules Committee on September 3, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Public discussion at Ethics Commission meetings on June 12, 2008, and July 10, 2008.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

City Officials, City candidates, political committees, campaign treasurers, and persons required to register as lobbyists.

Fulhorst

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:06 p.m. - 3:07 p.m.)

MOTION BY FRYE TO INTRODUCE THE ORDINANCE AS AMENDED BY INCORPORATING THE RECOMMENDATIONS INCLUDED IN THE MEMORANDUM FROM THE ETHICS COMMISSION DATED SEPTEMBER 12, 2008, EXCLUDING SECTIONS B1, D1, AND D2. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY MADAFFER TO APPROVE THE LETTER OF INTENT WITH THE CITY OF SANTEE AND PARDEE HOMES TO PURSUE JURISDICTIONAL REORGANIZATION PLAN AND RETURN TO COUNCIL FOR REVIEW AND APPROVAL. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-201: Costa Verde South Tentative Map, Project No. 71257. Appeal regarding the decision of the Planning Commission approving an application for a Tentative Map to convert 606 existing residential units to condominiums. (University Community Plan Area. District 1.)

Matter of the appeals by Cory J. Briggs, Briggs Law Corporation, filed on behalf of Citizens for Responsible Equitable Environmental Development and a separate appeal filed by Paul E. Robinson on behalf of the project owner, Costa Verde Developers, LLC, regarding the decision of the Planning Commission approving an application for a Tentative Map to convert 606 existing residential units to condominiums, on a 8.6-acre site located at 8510-8550 Costa Verde Boulevard, in the RS-1-4 Zone, within the University Community Plan Area.

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 the 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>.

(Continued from the meeting of September 9, 2008, Item 339, at the request of the applicant, for further review.

NOTE: Hearing closed. Testimony taken.

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2009-500) DENIED APPEAL; GRANTED TENTATIVE MAP AS AMENDED; ADOPTED AS RESOLUTION R-304228

Granting or denying the appeal and upholding or overturning the decision by the Planning Commission approving Tentative Map No. 216966;

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

Subitem-B: (R-2009-501) DENIED APPEAL; ADOPTED AS RESOLUTION R-304229

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superseding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate;

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

OTHER RECOMMENDATIONS:

Planning Commission on June 5, 2008, voted 6-0-1 to approve Tentative Map No. 216966 as presented in Report No. PC-08-058.

Ayes: Naslund, Otsuji, Schultz, Griswold, Ontai, Golba
Not present: Smiley

The University Community Planning Group has recommended approval of this project on January 10, 2006.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

Appeal of the project and environmental determination for the Costa Verde North and South Tentative Map condominium conversions projects.

STAFF RECOMMENDATION: DENY the appeals and APPROVE the Tentative Maps.

EXECUTIVE SUMMARY:

The Costa Verde North and South projects are related, contiguous projects that were built as part of the same development permit, consisting of 1,257 existing residential units, as described in the attached Planning Commission Reports (Attachments 1 and 2). Two separate project appeals (Attachments 3 and 4) of the Planning Commission's decision to approve these condominium conversion projects have been filed, one by Briggs Law and one by the applicant. Additionally, the applicant has agreed to voluntarily submit to an appeal of the City's environmental determination for this project, based on the environmental issues raised in Briggs Law's project appeal. One Executive Summary has been prepared because the appeal language for each project is the same.

Briggs Law Project Appeal: The majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, as discussed in detail on Page Two of this document. 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. 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."*

All of the condominium projects included in this group have 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 these projects do not comply with the current requirements for new construction, they are allowed to maintain their current configuration because no additional units or expansions are proposed and they are considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: *"The decision-maker 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."* Both projects were approved by the Planning Commission, who made this required finding. Staff believes the intent of this finding is to respond to "leapfrog" development and to provide necessary public facilities for additional housing in communities. This appeal point is not valid because there is no net loss or gain of housing units.

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. Both projects are conditioned to comply with the inclusionary housing requirements, including the provision of onsite affordable housing. These code sections are not relevant to these projects because neither is requesting a variance or waiver from the inclusionary housing requirements.

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, prior to the approval of these projects on June 5, 2008. A 2007 California appeals court case determined that housing elements updated beyond time periods identified in Government Code Section 65588 are not invalid. Therefore, this appeal point would not be grounds for denial of these projects.

Briggs Law Environmental Appeal: Both projects were determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision expired in June 2005. Although the opportunity to appeal the environmental determination for these projects has expired, the applicant has voluntarily elected to allow the project appeal applications that were filed by Briggs Law Corporation to also serve as appeals of the City's environmental determination for this project.

Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct, or reasonably foreseeable indirect physical change in the environment. City staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation.

Staff agrees that the limited availability of affordable housing in the City of San Diego is an issue of concern. However, these concerns are policy issues within the purview of City Council, and revisions to relevant policies and regulations are a more appropriate way to address the concerns of the appellant. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006, and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument.

Applicant's Project Appeal: The applicant asserts that these two projects should be allowed to pay an affordable housing in-lieu fee as opposed to being required to provide onsite affordable housing, as conditioned by the Planning Commission. The current condominium conversion regulations approved by Council on June 13, 2006, require projects such as these with 20+ units to provide onsite affordable housing.

The applicant argues that because these projects were deemed complete in May 2005, before the Council's adoption of those regulations, the requirement to provide onsite affordable housing should not apply. The Council included language in the ordinance which specifically states that any condominium conversion project that was deemed complete but not yet approved as of June 13, 2006, was subject to the new regulations, with the exception of parking.

The California Government Code allows public agencies to apply regulations that were not in effect when the project was deemed complete when notice of the proposed changes has been provided per Section 66474.2.

Because the potential condominium conversion ordinance changes were publicly known prior to the deemed complete date of these projects, the current condominium conversion regulations apply to these projects.

FISCAL CONSIDERATIONS: None. Applicant pays all costs associated with the project.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Both projects were approved by the Planning Commission 6-0 on June 5, 2008. The project appeals were scheduled to be heard by the Council on September 9, 2009. The applicant requested a continuance to allow them to voluntarily have the projects renoticed to include an appeal of the environmental determination by Briggs Law. Groups of these same types of environmental appeals have been previously heard by the City Council on July 31, 2006, March 20, 2007, June 12, 2007, and September 9, 2008. On all four dates, the City Council concurred with staff and denied all of the appellant's appeals.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Both projects were approved by the University Community Planning Group on January 10, 2006, and approved by the Planning Commission on June 5, 2008.

KEY STAKEHOLDERS:

Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation, Paul Robinson, attorney for the applicant and Garden Communities, applicant.

Broughton/Anderson/PG

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

Staff: Paul Godwin – (619) 446-5103
Karen Heumann – Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:50 p.m. - 4:17 p.m.)

Testimony in favor of the appeal by Joy Sunyata.

Testimony is opposition of the appeal by Richard Shulman.

MOTION BY MADAFFER TO DENY THE APPEAL AND UPHOLD THE DECISION BY THE PLANNING COMMISSION APPROVING TENTATIVE MAP NO. 216966 INCLUDING THE LANGUAGE ON DEFENSE AND INDEMNITY INCLUDED IN MR. ROBINSON'S LETTER DATED SEPTEMBER 2, 2008, AND TO DENY THE APPEAL AND UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CEQA FINDINGS OF THE PREVIOUS DECISION MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-202: Costa Verde North Tentative Map, Project No. 71264. Appeal regarding the decision of the Planning Commission approving an application for a Tentative Map to convert 651 existing residential units to condominiums. (University Community Plan Area. District 1.)

Matter of the appeals by Cory J. Briggs, Briggs Law Corporation, filed on behalf of Citizens for Responsible Equitable Environmental Development and a separate appeal filed by Paul E. Robinson on behalf of the project owner, Costa Verde North Village, LLC, regarding the decision of the Planning Commission approving an application for a Tentative Map to convert 651 existing residential units to condominiums, on a 9.17-acre site located at 8720-8950 Costa Verde Boulevard, in the RS-1-4 Zone, within the University Community Plan Area.

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 the 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>.

(Continued from the meeting of September 9, 2008, Item 338, at the request of the applicant, for further review.

NOTE: Hearing closed. Testimony taken.

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2009-504) DENIED APPEAL; GRANTED TENTATIVE MAP AS AMENDED; ADOPTED AS RESOLUTION R-304230

Granting or denying the appeal and upholding or overturning the decision by the Planning Commission approving Tentative Map No. 216983;

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

Subitem-B: (R-2009-505) DENIED APPEAL; ADOPTED AS RESOLUTION R-304231

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

1. Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
2. Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
3. Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate;

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

OTHER RECOMMENDATIONS:

Planning Commission on June 5, 2008, voted 6-0-1 to approve Tentative Map No. 216983 as presented in Report No. PC-08-059.

Ayes: Naslund, Otsuji, Schultz, Griswold, Ontai, Golba
Not present: Smiley

STAFF'S RECOMMENDATION:

The University Community Planning Group has recommended approval of this project on January 10, 2006.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the project and environmental determination for the Costa Verde North and South Tentative Map condominium conversions projects.

STAFF RECOMMENDATION: DENY the appeals and APPROVE the Tentative Maps.

EXECUTIVE SUMMARY:

The Costa Verde North and South projects are related, contiguous projects that were built as part of the same development permit, consisting of 1,257 existing residential units, as described in the attached Planning Commission Reports (Attachments 1 and 2). Two separate project appeals (Attachments 3 and 4) of the Planning Commission's decision to approve these condominium conversion projects have been filed, one by Briggs Law and one by the applicant. Additionally, the applicant has agreed to voluntarily submit to an appeal of the City's environmental determination for this project, based on the environmental issues raised in Briggs Law's project appeal. One Executive Summary has been prepared because the appeal language for each project is the same.

Briggs Law Project Appeal: The majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, as discussed in detail on Page Two of this document. 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. 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." All of the condominium projects included in this group have 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 these projects do not comply with the current requirements for new construction, they are allowed to maintain their current configuration because no additional units or expansions are proposed and they are considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: "The decision maker 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." Both projects were approved by the Planning Commission, who made this required finding. Staff believes the intent of this finding is to respond to "leapfrog" development and to provide necessary public facilities for additional housing in communities. This appeal point is not valid because there is no net loss or gain of housing units.

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. Both projects are conditioned to comply with the inclusionary housing requirements, including the provision of onsite affordable housing. These code sections are not relevant to these projects because neither is requesting a variance or waiver from the inclusionary housing requirements.

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, prior to the approval of these projects on June 5, 2008. A 2007 California appeals court case determined that housing elements updated beyond time periods identified in Government Code Section 65588 are not invalid. Therefore, this appeal point would not be grounds for denial of these projects.

Briggs Law Environmental Appeal: Both projects were determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision expired in June 2005. Although the opportunity to appeal the environmental determination for these projects has expired, the applicant has voluntarily elected to allow the project appeal applications that were filed by Briggs Law Corporation to also serve as appeals of the City's environmental determination for this project.

Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct, or reasonably foreseeable indirect physical change in the environment. City staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation.

Staff agrees that the limited availability of affordable housing in the City of San Diego is an issue of concern. However, these concerns are policy issues within the purview of City Council, and revisions to relevant policies and regulations are a more appropriate way to address the concerns of the appellant. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006, and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument.

Applicant's Project Appeal: The applicant asserts that these two projects should be allowed to pay an affordable housing in-lieu fee as opposed to being required to provide onsite affordable housing, as conditioned by the Planning Commission. The current condominium conversion regulations approved by Council on June 13, 2006, require projects such as these with 20+ units to provide onsite affordable housing.

The applicant argues that because these projects were deemed complete in May 2005, before the Council's adoption of those regulations, the requirement to provide onsite affordable housing should not apply. The Council included language in the ordinance which specifically states that any condominium conversion project that was deemed complete but not yet approved as of June 13, 2006, was subject to the new regulations, with the exception of parking.

The California Government Code allows public agencies to apply regulations that were not in effect when the project was deemed complete when notice of the proposed changes has been provided per Section 66474.2.

Because the potential condominium conversion ordinance changes were publicly known prior to the deemed complete date of these projects, the current condominium conversion regulations apply to these projects.

FISCAL CONSIDERATIONS: None. Applicant pays all costs associated with the project.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Both projects were approved by the Planning Commission 6-0 on June 5, 2008. The project appeals were scheduled to be heard by the Council on September 9, 2009. The applicant requested a continuance to allow them to voluntarily have the projects renoticed to include an appeal of the environmental determination by Briggs Law. Groups of these same types of environmental appeals have been previously heard by the City Council on July 31, 2006, March 20, 2007, June 12, 2007, and September 9, 2008. On all four dates, the City Council concurred with staff and denied all of the appellant's appeals.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Both projects were approved by the University Community Planning Group on January 10, 2006, and approved by the Planning Commission on June 5, 2008.

KEY STAKEHOLDERS:

Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation, Paul Robinson, attorney for the applicant and Garden Communities, applicant.

Broughton/Anderson/PG

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

Staff: Paul Godwin – (619) 446-5103
Karen Heumann – Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:17 p.m. - 4:18 p.m.)

MOTION BY MADAFFER TO DENY THE APPEAL AND UPHOLD THE DECISION BY THE PLANNING COMMISSION APPROVING TENTATIVE MAP NO. 216966 INCLUDING THE LANGUAGE ON DEFENSE AND INDEMNITY INCLUDED IN MR. ROBINSON'S LETTER DATED SEPTEMBER 2, 2008, AND TO DENY THE APPEAL AND UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CEQA FINDINGS OF THE PREVIOUS DECISION MAKER, WHERE APPROPRIATE. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-203: 1020 Dennery Road Tentative Map, Project No. 78473. Appeal of Planning Commission's decision approving an application for a Tentative Map to convert 346 existing residential apartment units to condominiums on a 15-acre site located at 1020 Dennery Road. (Otay Mesa Community Plan Area. District 8.)

Matter of the project and environmental appeals by Cory J. Briggs, Briggs Law Corporation, filed on behalf of Citizens for Responsible Equitable Environmental Development, from the decision by the Planning Commission approving an application for a Tentative Map to convert 346 existing residential apartment units to condominiums on a 15-acre site located at 1020 Dennery Road within the RM-2-5 Zone within the Otay Mesa Community Plan.

The City of San Diego as Lead Agency under the California Environmental Quality Act (CEQA) determined that the subject project is exempt from CEQA review pursuant to State CEQA Guidelines Section 15301(k) (Existing Facilities). Although the opportunity to appeal this determination expired in October 2005, the applicant has voluntarily elected to allow the project appeal application that was filed by Briggs Law Corporation to also serve as an appeal of the City's environmental determination for this project.

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>.

(TM No. 243888.)

(Continued from the meeting of September 9, 2008, Item 335, at the applicant's request, for further review.)

NOTE: Hearing closed. Public testimony taken on 9/9/2008.

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2009-) DENIED APPEAL; GRANTED TENTATIVE MAP AS AMENDED; ADOPTED AS RESOLUTION R-304232

Granting or denying the appeal and upholding or overturning the decision by the Planning Commission approving Tentative Map No. 243888;

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

Subitem-B: (R-2009-) DENIED APPEAL; ADOPTED AS RESOLUTION
R-304233

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

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

OTHER RECOMMENDATIONS:

Planning Commission on July 10, 2008, voted 4-1-2 to approve.

Ayes: Otsuji, Naslund, Ontai, Golba

Nays: Schultz

Not present: Griswold, Smiley

The Otay Mesa Community Planning Committee voted 12-0 to recommend approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the project and environmental determination for the 1020 Dennery Tentative Map condominium conversion project.

STAFF RECOMMENDATION: Deny the appeals and approve the Tentative Map.

EXECUTIVE SUMMARY:

The 1020 Dennerly Tentative Map project is a condominium conversion project consisting of 346 existing residential units that was approved by the Planning Commission. A project appeal was filed by the Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 1). Additionally, the applicant has agreed to voluntarily submit to an appeal of the City's environmental determination for this project, based on the environmental issues raised in Briggs Law's project appeal.

Briggs Law Project Appeal: The majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, as discussed in detail on Page Two of this document. 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 code 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.

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 this project does not comply with the current requirements for new construction, it is allowed to maintain its current configuration because no additional units or expansions 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 decision-maker 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 project was approved by the Planning Commission, who was the decision-maker 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. This project will comply with the City’s requirements by providing onsite affordable housing and 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.

Briggs Law Environmental Appeal: This project was determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision expired in October 2005. Although the opportunity to appeal the environmental determination for this project has expired, the applicant has voluntarily elected to allow the project appeal application that was filed by Briggs Law Corporation to also serve as an appeal of the City’s environmental determination for this project.

Staff conducted the initial review of this proposed Tentative Map in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the project is exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that this particular condominium conversion could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the project would not result in a direct, or reasonable foreseeable indirect physical change in the environment. City Staff has determined that the project is exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation.

Staff agrees that the limited availability of affordable housing in the City of San Diego is an issue of concern. However, these concerns are policy issues within the purview of City Council, and revisions to relevant policies and regulations are a more appropriate way to address the concerns of the appellant. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006, and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversion, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied in on the appellant. The appellant has not proved his argument.

FISCAL CONSIDERATIONS:

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

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This project was approved by the Planning Commission by a vote of 4-1 on July 10, 2008. The project appeal was scheduled to be heard by the Council on September 9, 2009. The applicant requested a continuance to allow them to voluntarily have the project renoticed to include an appeal of the environmental determination by Briggs Law.

Groups of these same types of environmental appeals have been previously heard by the City Council on July 31, 2006, March 20, 2007, June 12, 2007, and September 9, 2008. On all four dates, the City Council concurred with staff and denied all of the appellant's appeals.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Otay Mesa Community Planning Committee voted 12-0-0 to recommend approval of the proposed project on March 19, 2007, with no conditions.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Casoleil, LP, applicant, Walter T. Schwerin, engineer and Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation, appellant.

Anderson/Broughton

Staff: William Zounes – (619) 687-5942
Karen Huemann – Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:18 p.m. - 4:27 p.m.)

Testimony in favor of the appeal by Joy Sunyata.

Testimony in opposition of the appeal by Neil Hyytinea.

MOTION BY MADAFFER TO DENY THE APPEAL AND UPHOLD THE DECISION BY THE PLANNING COMMISSION APPROVING TENTATIVE MAP NO. 216966 INCLUDING THE LANGUAGE ON DEFENSE AND INDEMNITY INCLUDED IN MR. ROBINSON'S LETTER DATED SEPTEMBER 2, 2008, AND TO DENY THE APPEAL AND UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CEQA FINDINGS OF THE PREVIOUS DECISION MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-204: Sixth Update to the Land Development Code and Local Coastal Program Amendment; Amendments to the Municipal Code (Chapter 9, Article 5 (repealing Article 1); Chapter 11, Article 3; Chapter 12, Articles 5 and 6; Chapter 13, Articles 1 and 2; Chapter 14, Articles 1, 2, and 3; and Chapter 15, Articles 5, 12, and 19; and the Local Coastal Program to clarify existing regulations, address inconsistencies, and streamline existing permit processes. The amendments includes 51 issues divided into the seven issue categories of measurement, permit process, landscape, parking, signs, compliance with state law, and minor corrections. Repeal of the Locational Criteria, Construction and Material Standards and Maintenance Standards; Community Identification Signs and

Community Area Identification Signs, and repeal of Council Policy 200-10, Community Identification Signs. The signs requirements of the standards and the Council Policy have been incorporated into the Land Development Code. (Citywide.)

Matter of approving, conditionally approving, modifying, or denying the Sixth Update to the Land Development Code and Local Coastal Program Amendment. Amendments to the Municipal Code (Chapter 9, Article 5; Chapter 11, Article 3; Chapter 12, Articles 5 and 6; Chapter 13, Articles 1 and 2; Chapter 14, Articles 1, 2, and 3; and Chapter 15, Articles 5, 12, and 19) and the Local Coastal Program to clarify existing regulations, address inconsistencies, and streamline existing permit processes. The actions also include the repeal of Chapter 9, Article 5, Division 1 Signs, repeal of the Locational Criteria, Construction and Material Standards and Maintenance Standards: Community Identification Signs and Community Area Identification Signs, and repeal of Council Policy 200-10 Community Identification Signs. These sign regulations and requirements have been revised and relocated into the Land Development Code.

The Sixth Update to the Land Development Code includes 51 issues divided into seven issue categories including measurement, permit process, landscape, parking, signs, compliance with state law, and minor corrections. The 15 measurement items would clarify how things are defined or measured in the Land Development Code, particularly in relation to the calculation of gross floor area, structure height, and setbacks. The eight permit process issues are intended to improve the permit process and address inconsistencies in the existing regulations as related to automobile service stations, transitional housing, reasonable accommodations, sustainable building projects, affordable housing density bonus, employee housing, guest quarters, and eating and drinking establishments abutting residentially zoned property.

The four landscape issues are proposed to clarify the type of projects requiring landscape review, plant material requirements, and to address inconsistencies with existing remaining yard and street tree requirements. The four parking issues would clarify existing parking requirements and incorporate new requirements to accommodate mechanical automobile lifts and to accommodate driveway design for non-residential uses on narrow lots. The two sign issues are proposed to remove inconsistencies between the Land Development Code and other sections of the Municipal Code, consolidate requirements into a single location, and to clarify the difference between community entry signs and neighborhood

identification signs. The three state law issues would bring the City into compliance with state law regarding heliport licenses, the definition of family child care homes, and compliance with the Solid Waste Refuse and Recycling Act. The 15 minor corrections would fix errors in the code such as incorrect terms, formatting errors, typographical errors, and minor Planned District Ordinance corrections.

The proposed amendments to the Land Development Code constitute an amendment to the California Local Coastal Program (LCP) to be effective in the Coastal Overlay Zone. The LCP amendment will not become effective until unconditionally certified by the California Coastal Commission. If you wish to be noticed of the Coastal Commission hearing on this issue, prior to the close of the City Council public hearing, you must submit a request in writing to City of San Diego, Development Services Department, 1222 First Avenue, MS-501, San Diego, CA 92101, Attention: Dan Joyce.

*** Unless otherwise noticed or stated on the record at the hearing, if an ordinance is approved and introduced by the City Council, it will automatically be scheduled for a hearing by the City Council for final passage at 10:00 a.m. on the Tuesday two weeks after the subject hearing.**

(See Report to Planning Commission No. PC-08-050.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (O-2009-29 Cor. Copy) INTRODUCED, TO BE ADOPTED TUESDAY,
OCTOBER 28, 2008

Amending the San Diego Municipal Code by amending Chapter 13, Article 1, Division 2, by amending Sections 131.0222 and 131.0231; by amending Chapter 13, Article 1, Division 3, by amending Sections 131.0322 and 131.0331; by amending Chapter 13, Article 1, Division 4, by amending Sections 131.0422 and 131.0431; by amending Chapter 13, Article 1, Division 5, by amending Sections 131.0522 and 131.0531; by amending Chapter 13, Article 1, Division 6, by amending Sections 131.0622 and 131.0631; by amending Chapter 14, Article 1, Division 6, by amending Section 141.0606; by amending Chapter 14, Article 2, Division 8, by amending Sections 142.0805, 142.0810, 142.0820 and 142.0830, all relating to the Land Development Code;

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

Subitem-B: (O-2009-30 Cor. Copy) INTRODUCED, TO BE ADOPTED TUESDAY,
OCTOBER 28, 2008

Amending the San Diego Municipal Code by amending Chapter 14, Article 2, Division 4, by amending Sections 142.0402, 142.0403, 142.0404, 142.0405, and 142.0409, all related to the Land Development Code;

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

Subitem-C: (O-2009-31 Cor. Copy2) INTRODUCED, TO BE ADOPTED TUESDAY,
OCTOBER 28, 2008

Amending the San Diego Municipal Code by amending Chapter 11, Article 3, Division 1, by amending Section 131.0103; by amending Chapter 11, Article 3, Division 2, by repealing Section 113.0231, and by amending Sections 113.0234, 113.0237, 113.0240, 113.0243, 113.0246, 113.0249, 113.0252, 113.0261, 113.0270, and 113.0276; by amending Chapter 13, Article 1 by amending Division 2, Section 131.0215; by amending Chapter 13, Article 1, Division 3, Sections 131.0315, 131.0331, and 131.0343, by amending Chapter 13, Article 1, Division 4, Sections 131.0415, 131.0431, 131.0443, 131.0444, 131.0448, 131.0449, 131.0453, 131.0455, and 131.0461; and by repealing Section 131.0465; by amending Chapter 13, Article 1, Division 5, by amending Section 131.0515; by amending Chapter 13, Article 1 Division 6, Section 131.0615; and by amending Chapter 14, Article 3, Division 4, by amending Section 143.0410, all relating to the Land Development Code;

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

Subitem-D: (O-2009-32 Cor. Copy) INTRODUCED, TO BE ADOPTED TUESDAY,
OCTOBER 28, 2008

Amending the San Diego Municipal Code by amending Chapter 14, Article 12, Division 5, by amending Section 142.0525; by adding a new section 142.0556; and by amending Section 142.0560, all related to the Land Development Code;

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

Subitem-E: (O-2009-33 Cor. Copy2) INTRODUCED, TO BE ADOPTED TUESDAY,
OCTOBER 28, 2008

Amending the San Diego Municipal Code by amending Chapter 12, Article 6, by amending Division 2, by amending Section 126.0203; by amending Division 3, by amending Section 126.0303; by amending Division 4, by amending Section 126.0402; and by amending Division 5, by amending Section 126.0502; by amending Chapter 12, Article 9, by amending Division 7, by amending Section 129.0710; by amending Chapter 13, Article 1, by amending Division 2, Section 131.0222, by amending Division 3, by amending Section 131.0322; by amending Division 4, by amending Sections 131.0422, and 131.0466; by amending Division 5, by amending Section 131.0522; and amending Division 6, by amending Section 131.0622; and amending Chapter 14, Article 1, by amending Chapter 1, by amending Division 3, by amending Sections 141.0303 and 141.0306; by amending Division 6, by amending Section 141.0607; by amending Division 8, by amending Section 141.0801; and by amending Article 3, Division 3, by amending Section 143.0302, all related to the Land Development Code;

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

Subitem-F: (O-2009-34 Cor. Copy2) INTRODUCED, TO BE ADOPTED TUESDAY,
OCTOBER 28, 2008

Amending the San Diego Municipal Code by repealing Chapter 9, Article 5, Division 1, Sections 95.0101, 95.0102, 95.0103, 95.0104, 95.0105, 95.0106, 95.0107, 95.0108, 95.0109, 95.0110, 95.0111, 95.0112, 95.0113, 95.0114, 95.0115, 95.0116, 95.0117, 95.0131, 95.0132, 95.0133, 95.0134, 95.0135, 95.0136, 95.0137, 95.0138, and 95.0139; by amending Chapter 13, Article 1, Division 2, by amending Section 131.0222; by amending Chapter 13, Article 1, Division 3, by amending Section 131.0322; by amending Chapter 13, Article 1, Division 4, by amending Section 131.0422; by amending Chapter 13, Article 1, Division 5, by amending Section 131.0522; by amending Chapter 13, Article 1, Division 6, by amending Section 131.0622; by amending Chapter 14, Article 1,

Division 11, by renumbering current Sections 141.1101, 141.1102, and 141.1103 to new Sections 141.1104, 141.1105, and 141.1106, respectively, by adding a new Section 141.1101, by renumbering and amending current Section 141.1104 to new Section 141.1102, and by renumbering current Section 141.1105 to new Section 141.1103, by amending Chapter 14, Article 2, Division 12, by amending Sections 142.1210 and 142.1260, all related to the Land Development Code;

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

Subitem-G: (O-2009-35 Cor. Copy2) INTRODUCED, TO BE ADOPTED TUESDAY,
OCTOBER 28, 2008

Amending the San Diego Municipal Code by amending Chapter 12, Article 5, Division 2, by amending Section 125.0220; by amending Chapter 12, Article 6, Division 4, by amending Section 126.0404; by amending Chapter 13, Article 1, Division 2, by amending Section 131.0231; by amending Chapter 13, Article 1, Division 4, by amending Section 131.0431; by amending Chapter 14, Article 2, Division 10, by amending Section 142.1010; by amending Chapter 14, Article 2, Division 12, by amending Section 142.1270; by amending Chapter 14, Article 3, Division 1, by amending Section 143.0145; by amending Chapter 14, Article 3, Division 2, by amending Section 143.0210; by amending Chapter 14, Article 3, Division 9, by amending Section 143.0915; by amending Chapter 15, Article 5, Division 2, by amending Sections 155.0238 and 155.0242; by amending Chapter 15, Article 12, Division 3, by amending Sections 1512.0308 and 1512.0310; by amending Chapter 15, Article 19, Division 3, by amending Section 1519.0303; and by amending Chapter 15, Article 19, Division 4, by amending Section 1519.0403, all to make minor corrections to the Land Development Code;

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

Subitem-H: (R-2009-243 Cor. Copy) ADOPTED AS RESOLUTION R-304234

Repealing the Locational Criteria, Construction and Material Standards and Maintenance Standard, Community Identification Signs and Community Area Identification Signs adopted on September 12, 1974 by Resolution No. R-211549;

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

Subitem-I: (R-2009-244 Cor. Copy) ADOPTED AS RESOLUTION R-304235

Repealing Council Policy No. 200-10, "Community Identification Signs;"

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

OTHER RECOMMENDATIONS:

Planning Commission on July 10, 2008, voted 5-0-2, to approve.

Ayes: Schultz, Naslund, Ontai, Otsuji, Golba

Not present: Griswold, Smiley

This is a City-wide effect.

The Community Planners Committee (CPC) on February 22, 2005, has recommended the regulations be approved with one modification to the regulations proposed for automobile services stations.

The Rancho Bernardo Community Planning Board has recommended the regulations be approved with one modification to the regulations proposed for automobile services stations.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approve the amendments to the Municipal Code and the City's Local Coastal Program in the Sixth Update to the Land Development Code.

STAFF RECOMMENDATION:

APPROVE the amendments to the Land Development Code and the City's Local Coastal Program [Chapter 6, Article 8; Chapter 9, Article 5 (repeal of Division 1 Signs); Chapter 11, Article 3; Chapter 12, Articles 5 and 6; Chapter 13, Articles 1 and 2; Chapter 14, Articles 1, 2, and 3; and Chapter 15, Articles 5, 12, and 19] and the Local Coastal Program to clarify existing regulations, address inconsistencies, and streamline existing permit processes. This approval also includes the repeal "The Locational Criteria, Construction and Material Standards and

Maintenance Standards: Community Identification Signs and Community Area Identification Signs”; and the repeal Council Policy 200-10 “Community Identification Signs” since the proposed amendments to the Land Development Code will clarify, make consistent, and consolidate the sign regulations and standards.

EXECUTIVE SUMMARY:

The Sixth Update to the Land Development Code (LDC) is part of the code monitoring program directed by the Mayor and City Council as part of the adoption of the LDC (effective January 2000). The Sixth Update project is divided into seven issue categories including Measurement, Permit Process, Landscape, Parking, Signs, Compliance with State Law, and Minor Corrections. There are a total of 51 issues included in the Sixth Update.

The 51 issues in this update have been identified as amendments necessary to clarify existing regulations or address inconsistencies, as well as amendments that would help to streamline existing processes and better meet existing policies. Staff has conducted extensive research and analysis involving multiple stakeholder groups, City departments, and other governmental agencies. Due to the complexity of the measurement issues, a series of workshops were held with local architects, and Code Monitoring Team subcommittee members between May and August 2006, and more recently in 2008, to gather input specific to those items.

FISCAL CONSIDERATIONS:

The costs of processing this amendment are funded through the Development Services Department Code Update Section which is funded as an overhead expense in the Development Services Department’s budget.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Planning Commission: On July 10, 2008, the Planning Commission voted 5-0-2 to recommend approval of staff recommendation with direction to incorporate the modification to Automobile Service Stations requested by the Rancho Bernardo Community Planning Board and the Community Planners Committee. That modification is included in the amendments presented to the City Council.

Community Planners Committee (CPC): On June 24, 2008, the Community Planners Committee voted 26-0 to recommend approval of the Sixth Update to the Land development Code with the modification that a Process 2 Neighborhood Use permit be required for Automobile service stations in all CC and CR zones. That modification is included in the amendments presented to the City Council.

Technical Advisory Committee (TAC): On May 14, 2008, the Technical Advisory Committee received an informational report on the Sixth Update to the Land Development Code. Additional discussion regarding the Sixth Update occurred at the March 13, 2007 meeting.

Code Monitoring Team (CMT): On February 13, 2008, the Code Monitoring Team voted 8-0 to support the proposed amendments to the Land Development Code. The Code Monitoring Team previously reviewed the proposed Sixth Update to the Land Development Code on May 9, and June 13, 2007.

Public Distribution: In an effort to encourage greater public participation, a request for input on the draft Sixth Update project was distributed via e-mail on March 18, 2008, to the City Planning and Community Investment Department database of interested persons. That database of approximately 1,900 individuals includes members of every community planning group, stakeholder groups, and other interested members of the public. Comments received during the public comment and review period (45 days) were addressed and incorporated into a revised draft as presented for Planning Commission review and consideration.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include individual property and business owners, community planning groups, the building industry, and design professionals. No impacts have been identified with the proposed amendments.

Broughton/Anderson DJ

NOTE: This activity is covered under the Land Development Code Environmental Impact Report (EIR) No. 96-0333. Revisions to Land Development Code Project No. 96-7897, Addendum to EIR No. 96-0333; and Land Development Code Revisions; Affordable Housing Density Bonus Regulations Project No. 63422, Supplemental to EIR No. 96-0333. The activity is adequately addressed in the environmental documents and there are no changes in circumstance, additional information, or project changes to warrant additional environmental review. Because of the prior environmental documents adequately covered this activity as part of the previously approved projects, the activity is not a separate project for purposes of CEQA review per CEQA Guidelines Section 15060(c)(3).

Staff: Dan Joyce – (619) 446-5388
Shirley R. Edwards – Chief Deputy City Attorney

FILE LOCATION: SUBITEMS A-G: NONE
SUBITEMS H-I: MEET

COUNCIL ACTION: (Time duration: 4:27 p.m. - 4:50 p.m.)

Testimony in favor by Michael Sim.

MOTION BY ATKINS TO INTRODUCE THE ORDINANCES IN SUBITEMS A, B, C, D, E, F, AND G AND TO ADOPT THE RESOLUTIONS IN SUBITEMS H AND I. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-250: **Notice** of Pending Final Map Approval – 2234 Brant Street Condominiums.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “2234 Brant Street Condominiums” (T.M. No. 268035/PTS No. 133651), located on the west side of Brant Street between West Ivy Street and West Juniper Street in the Uptown Community Plan Area in Council District 2, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the

date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

ITEM-251: The list of ticket users for the City Suites at Qualcomm Stadium and Petco Park will be posted on the City Clerk's website quarterly. This information will also be available for viewing by the public in the Office of the City Clerk.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters. at 5:00 p.m. in honor of the memory of:

Harriet Gill at the request of Council President Pro Tem Madaffer.

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Minutes of the Council of the City of San Diego
for the Regular Meeting of Monday, October 13, 2008

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FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:50 p.m. - 5:00 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego