

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

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council Member Young at 10:04 a.m. Council Member Young recessed the meeting at 11:34 a.m. for the purpose of a break. Council President Hueso reconvened the meeting at 11:40 a.m. with all Council Members present. The meeting was recessed by Council President Hueso at 12:07 p.m.

The meeting was reconvened by Council President Hueso at 2:03 p.m. with all Council Members present. Council President Hueso recessed the meeting at 4:24 p.m. to convene the Redevelopment Agency. Council President Hueso reconvened the regular meeting at 4:32 p.m. with all Council Members present. The meeting was adjourned by Council President Hueso at 4:34 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Lightner-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Gloria-present
 - (4) Council Member Young-present
 - (5) Council Member DeMaio-present
 - (6) Council Member Frye-present
 - (7) Council Member Emerald-present
 - (8) Council Member Hueso-present
- Clerk-Maland (dlc/mz)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Lightner-present
- (2) Council Member Faulconer-present
- (3) Council Member Gloria-present
- (4) Council Member Young-present
- (5) Council Member DeMaio-present
- (6) Council Member Frye-present
- (7) Council Member Emerald-present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Al Strohlein commented on his concerns.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:51 a.m. - 11:54 a.m.)

PUBLIC COMMENT-2:

Jim Varnadore commented on goodbye speeches.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:54 a.m. - 11:57 a.m.)

PUBLIC COMMENT-3:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:57 a.m. - 12:00 p.m.)

PUBLIC COMMENT-4:

Hud Collins commented on the financial crisis.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 12:00 p.m. - 12:02 p.m.)

PUBLIC COMMENT-5:

Aaron Klein and Rudy Reyes commented on medical cannabis.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 12:02 p.m. - 12:05 p.m.)

PUBLIC COMMENT-6:

Elinor Rector commented on her concerns.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 12:05 p.m. - 12:07 p.m.)

PUBLIC COMMENT-7:

Cricket Bradburn commented on the homeless situation in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:06 p.m. – 2:09 p.m.)

PUBLIC COMMENT-8:

Izean Rim commented on providing winter shelters for the homeless in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:09 p.m. – 2:12 p.m.)

PUBLIC COMMENT-9:

Jarvis Ross commented on financial issues and public facility closures.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:12 p.m. – 2:15 p.m.)

PUBLIC COMMENT-10:

Jose Villobas commented on zoning and industrial pollution in City Heights.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:18 p.m.)

PUBLIC COMMENT-11:

David Ross commented on portable restrooms in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:18 p.m. – 2:21 p.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Lightner updated the public on the military jet crash in University City and announced a community information meeting to be held on Thursday, December 11, 2008, at 6:00 p.m. at the University City High School Auditorium.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 3:59 p.m. – 4:01 p.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Soka Gakkai International Youth Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-691) ADOPTED AS RESOLUTION R-304538

Proclaiming December 9, 2008, to be "Soka Gakkai International Youth Day", honoring Daisaku and Kaneko as mentors of American Youth, wholeheartedly joining in their objective for 2009, "The Year of Youth and Victory."

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:29 a.m. – 11:45 a.m.)

MOTION BY FRYE TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

ITEM-50: Community Planning Groups Indemnification Ordinance.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 11/24/2008, Item 200, Version B. (Council voted 6-1. Councilmember Madaffer voted nay. Councilmember Maienschein not present):

(O-2009-22 Cor. Copy 9) Version B CONTINUED TO MONDAY,
JANUARY 12, 2009

Declaring by the Council of the City of San Diego as follows:

Except as hereinafter provided, the Office of the City Attorney shall represent and defend, and the City of San Diego shall indemnify, the Community Planners Committee (CPC) established by Council Policy 600-9, and any community planning group established pursuant to Council Policy 600-24, both entities

hereafter referred to as “group,” and the duly elected or appointed members thereof against any claim or action against such group, member, or former member, if all of the following circumstances exist:

- A. The person is a duly-elected or appointed member of a group recognized and operating in accordance with Council Policy 600-9 or Council Policy 600-24; and the person has attended prior to participating in the activity which gave rise to the claim or action against the group or member, or, in the case of newly-elected or appointed members, will attend within 12 months of being elected or appointed, a community planners’ training course conducted by the City of San Diego; and
- B. The alleged act or omission occurred or was authorized during a lawful meeting of the group or subcommittee thereof;
- C. The alleged act or omission was within the reasonable scope of duties of a committee as described in Council Policies 600-5, 600-6, 600-9 and 600-24, and was not in violation of any of those Council Policies, or any provision of the bylaws adopted by the group and approved and/or adopted by the appropriately-designated City officials or City entities;
- D. The member or group has made a request in writing to the City Attorney for defense and indemnification no later than ten (10) working days of having been served or notified of such legal papers; and
- E. The member or group has performed its duties in good faith and with such care, including reasonable inquiry, as an ordinarily prudent person or persons in a like position would use under similar circumstances.

Non-members, duly-appointed by planning groups as members of subcommittees, may satisfy the requirements for indemnification under this ordinance, provided they satisfy any and all requirements of Section 1 above, with the exception of group membership requirements of Subsection A. The training requirements for non-member subcommittee members shall be enumerated within the Council Policy 600-24 Administrative Guidelines;

Upon the request of a member, former member, or group, the City of San Diego shall defend and indemnify each and every member and/or group through and until final adjudication in the court, tribunal, or administrative body of proper jurisdiction for any and all claims, actions, litigation and/or lawsuits arising from the member's or group's official capacity and duties, regardless of whether the claim, action, litigation and/or lawsuit may plead and/or allege claims including, but not limited to, actual fraud, corruption, direct economic interest, malice, actual malice, and/or bad faith.

- A. In the event that actual fraud, corruption, direct economic interest, actual malice, and/or bad faith is/are alleged in any pleading and/or document in the claim, action, litigation, and/or lawsuit, the City Council may in writing reserve a right of reimbursement from the member or group for attorney fees and costs directly and exclusively resulting from defending and/or indemnifying the member or group, against whom a jury or bench trial verdict of liability and/or guilt for actual fraud, corruption, direct economic interest, actual malice, and/or bad faith has been made.
- B. In the event that a claim, action, litigation, and/or lawsuit arises from the member's or group's intentional violation of group bylaws or policies and either Council Policy 600-24, the Council Policy's Administrative Guidelines, or other City rules regarding planning groups, the City Council may in writing reserve a right of reimbursement from said member or group for attorney fees and costs directly and exclusively resulting from defending and/or indemnifying the member or group, against whom a jury or bench trial verdict of liability and/or guilt for the intentional violation has been made.
- C. In the event that a member and/or group demonstrates a pattern and practice of refusal to cooperate with the City Attorney in the defense of the claim, action, litigation, and/or lawsuit, the City Attorney may, with written approval from the City Council, withdraw from defending and/or indemnifying the member and/or group.

In the event that the Office of the City Attorney determines that a member or a group is not entitled to or should not receive a defense and indemnification under this ordinance, the Office shall promptly advise the City Council and the member or group;

Nothing in this Ordinance shall relieve the City Attorney or any attorney employed with the Office of the City Attorney from his or her obligations under the California Rules of Professional Conduct;

Representation and indemnification shall not be provided by the City of San Diego in any administrative or judicial proceeding initiated by a group or its members against the City of San Diego, its agencies or representatives or any other party or organization nor shall representation and indemnification be provided to a group or its members against damages to any person or organization which are alleged to have resulted from the initiation of any administrative or judicial proceeding by a group or its members. This Section shall not limit a recognized group's rights, as an interested party, to appeal a land use decision as enumerated in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code, regarding the City's decision-making process;

The provisions of this ordinance apply only to members of groups established and recognized by the City Council pursuant to Council Policy 600-9 and Council Policy 600-24, or duly-appointed members of subcommittees of recognized groups, provided they satisfy the requirements of this ordinance and the Council Policy 600-24 Administrative Guidelines;

In no event shall representation or indemnification be provided against a judgment for punitive damages;

This ordinance does not constitute an admission or a waiver of the position of the City of San Diego that groups and the members thereof are not officers, employees or servants of the City of San Diego.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:27 p.m.)

MOTION BY FRYE TO CONTINUE TO MONDAY, JANUARY 12, 2009, AT THE REQUEST OF THE CITY ATTORNEY'S OFFICE FOR FURTHER REVIEW. Second by Young. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

- * ITEM-51: Second Amendment to the Agreement with Cornerstone Engineering Corporation for La Jolla Village Drive-Torrey Pines Road to Villa La Jolla. (University City Community Area. District 1.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2009-44) CONTINUED TO TUESDAY, JANUARY 6, 2009

Introduction of an Ordinance authorizing the Mayor to execute, for and on behalf of the City, an Agreement with Cornerstone Engineering Corporation, for professional engineering services, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Authorizing the expenditure of an amount not to exceed \$1,500 from Fund 79001, North University City Facilities Benefit Assessment (FBA), CIP-52-452.0, La Jolla Village Drive - Torrey Pines Road to Villa La Jolla, for the purpose of providing funds for the above referenced Project;

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

Declaring that this activity was covered under a previously certified Mitigated Negative Declaration, LDR No. 42-0823, PTS No. 5264 by Resolution No. R-298807 dated January 26, 2004.

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

STAFF SUPPORTING INFORMATION:

The La Jolla Village Drive - Torrey Pines Road to Villa La Jolla Drive project provides for a six (6) traffic-lane prime arterial with sidewalks and Class 2 bike lanes between North Torrey Pines Road and Gilman Drive and an eight (8) traffic-lane prime arterial from Gilman Drive to Villa La Jolla Drive. It also includes bridge widening and interchange improvements at the La Jolla Village Drive/Gilman Drive overcrossing. This project is consistent with both the La Jolla Shores and University City Community Plans.

This Second Amendment to the Consultant Agreement is for the purpose of drafting nine additional plan sheets due to changes made during construction, which need to be reflected into the record drawings (as-builts).

FISCAL CONSIDERATIONS:

City of San Diego Council previously authorized the transfer of funds within the North University Facilities Benefit Assessment Fund 79001, from CIP-52-362.0, Nobel Drive Extension into CIP-52-452.0, La Jolla Village Drive - Torrey Pines Road To Villa La Jolla. Funding for the second amendment to the agreement in the amount of \$1,500 is available in Fund 79001, North University City Facilities Benefit Assessment Fund, CIP-52-452.0, La Jolla Village Drive - Torrey Pines Road To Villa La Jolla.

PREVIOUS COUNCIL COMMITTEE ACTION:

On March 29, 1993, per RR-281698 the City Council approved the Consultant Agreement with Fraser Engineering (Cornerstone Engineering), to provide professional engineering services for the design of the subject project which included the widening of La Jolla Village Drive from North Torrey Pines Road to Gilman Drive and the widening of the Gilman / La Jolla Village Drive bridge overcrossing.

On June 10, 2003, per RR-298063, the City Council approved a First Amendment to the agreement with Cornerstone Engineering to provide updated plans and specifications and also to provide engineering support services during construction.

On May 10, 2004, per RR-299189, the City Council approved the transfer of funds into the CIP-52-452.0, La Jolla Village Drive Widening - Torrey Pines Road to Villa La Jolla, for the purpose of funding the final construction change order and related costs.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego
Goals: 15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Sub-consultant Participation: Previously Approved Agreement \$16,900 DBE (2.57%) and \$35,800 OBE (5.45%)
For this amendment of \$1,500 the subconsultant participation is 0%.
Other: Workforce Report Submitted - Equal Opportunity Plan required. Staff will monitor plan and adherence to Nondiscrimination Ordinance.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The University City Planning Group and La Jolla Community Planning Association were previously provided status updates and informational meetings of the project by the design team.

KEY STAKEHOLDERS:

City of San Diego, Cornerstone Engineering Corporation, University City Planning Group, La Jolla Shores Community Planning Association.

Boekamp/Jarrell

Aud. Cert. 2900186.

Staff: Marnell Gibson - (619) 533-5213
Ryan Kohut - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:27 p.m. – 2:45 p.m.)

MOTION BY FAULCONER TO CONTINUE TO TUESDAY, JANUARY 6, 2009, AT THE REQUEST OF COUNCIL MEMBER LIGHTNER FOR FURTHER REVIEW.
Second by DeMaio. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

ITEM-100: Consultant Agreement with MGT of America, Inc. (Formerly Known as Public Resource Management Group, LLC). (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-688) RETURNED TO MAYOR

Authorizing the Mayor to execute, for and on behalf of the City, a Consultant Agreement with MGT of America, Inc. (formerly known as Public Resource Management Group, LLC, under Sole Source Contract, Sole Source Number 1855), under the terms and conditions set forth in the Agreement, for the purpose of developing departmental-wide indirect cost rates (Project);

Authorizing the expenditure of an amount not to exceed \$50,000 from Fund 100, General Fund; Fund 30100, Underground Surcharge Fund, for the purpose of providing funds for the above referenced Project;

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

STAFF SUPPORTING INFORMATION:

The Engineering and Capital Projects Department completed Business Process Reengineering (BPR) which was approved by City Council on July 31, 2007. As a result, the department required the assistance of a consultant to formulate a new organizational overhead rate structure. MGT of America, Inc. (formerly known as Public Resource Management Group (PRM) was awarded a sole source contract, (Sole Source #1855) due to their existing contract working with the Comptroller's Office to calculate City-wide overhead rates. To maintain consistency and compatibility with City's existing practices it was advantageous to maintain MGT of America, Inc. (formerly known as Public Resource Management Group, LLC), which has the experience and resources necessary to complete the new organizational rate structure for inclusion in the budget.

FISCAL CONSIDERATIONS:

The total fee for the Agreement is \$50,000. Funding is available within the Department's Fund 100, General Fund; Fund 30100, Underground Surcharge Fund.

PREVIOUS COUNCIL COMMITTEE ACTION:

BPR dates in May and July.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS: N/A

Boekamp/Jarrell

Aud. Cert. 2900363.

Staff: Sabrina Carnell - (619) 533-7587
Michael P. Calabrese – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:45 a.m. – 11:47 a.m.)

MOTION BY COMMON CONSENT TO RETURN TO MAYOR'S OFFICE. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-101: San Diego County 2004 Multi-Jurisdictional Hazard Mitigation Plan Adoption into the City of San Diego's General Plan (2008). (Citywide.)

(See memorandum from Beryl Bailey Rayford dated 11/7/2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-675) ADOPTED AS RESOLUTION R-304539

Approving the adoption of the San Diego County 2004 Multi-Jurisdictional Hazard Mitigation Plan (HMP) into the safety element of the City's General Plan (2008).

STAFF SUPPORTING INFORMATION:

As a federal requirement under the Disaster Mitigation Act of 2000, local governments were required to have an approved Hazard Mitigation Plan (HMP) in place by November 2004, in order to qualify for hazard mitigation program grants and post disaster mitigation funds. The City participated in the development of the San Diego County 2004 Multi-Jurisdictional Hazard Mitigation Plan. That plan was adopted by City Council on April 26, 2004, and by the Federal Emergency Management Agency (FEMA) on February 2, 2005. On January 1, 2007, AB 2140 became effective which authorizes cities and counties to adopt a local hazard mitigation plan as a part of their General Plan's safety elements.

The California Disaster Assistance Act (CDAA) limits the state share for any eligible project to no more than 75% of total state eligible costs, except that the state share shall be up to 100% of total state eligible costs connected with certain events. AB 2140 limits the funding of an additional state share for certain disaster recovery projects funded with CDAA unless the local jurisdiction has complied with the provisions set forth by that legislation. In order to qualify for funding under this new law, the City must file a certified copy of the Resolution of Adoption that demonstrates FEMA's approved San Diego County 2004 Multi-Jurisdictional Hazard Mitigation Plan is adopted into the safety element of the City of San Diego's General Plan (2008).

FISCAL CONSIDERATIONS:

Until adopted, the City will not qualify or be considered eligible for the increased State share of Public Assistance reimbursement under the law. It also will not be given preference for funding from the Pre-Disaster Mitigation Program, the Hazard Mitigation Grant Program and the Flood Mitigation Assistance Program. This could result in the loss of significant funding to offset the City's share of eligible disaster recovery costs and to enhance the City's mitigation efforts.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The San Diego County 2004 Multi-Jurisdictional Hazard Mitigation Plan was approved by City Council Resolution R-299121 on April 26, 2004 and by the Federal Emergency Management Agency (FEMA) on February 2, 2005.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Citizens of San Diego
State of California Governor's Office of Emergency Services
Federal Emergency Management Agency

Funding received from the Pre-Disaster Mitigation Program, the Hazard Mitigation Grant Program, the Flood Mitigation Assistance Program, and the Public Assistance Programs directly support and are vital to the City of San Diego's ability to mitigate potential damages and recover from a catastrophic event.

Faller/Olen

Staff: Donna Faller - (619) 533-6763
Lori M. Thacker - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:52 a.m. – 11:53 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Young. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

ITEM-102: Authorizing Continued Retention and Future Reserve Funding for Latham & Watkins, LLP for Legal Services in *Marcus Abbe et al. v. City of San Diego*, USDC Case No. 05CV1629 and *San Diego Police Officers' Association v. City of San Diego*, Superior Court Case No. 37-2007-00082592-CU-OE-CTL.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-628) ADOPTED AS RESOLUTION R-304549

Authorizing the City Attorney to continue the retention of Latham & Watkins, LLP, for an additional amount not to exceed \$500,000, to provide legal services in *Marcus Abbe, et al. v. City of San Diego*, USDC Case No. 05CV1629 and *San Diego Police Officers' Association v. City of San Diego*, Superior Court Case No. 37-2007-00082592-CU-OE-CTL;

Authorizing the City Comptroller to expend an amount not to exceed \$500,000 from the Public Liability Fund, solely and exclusively, for the purpose of providing funds for the above described legal services.

SUPPORTING INFORMATION:

SDPOA #2 and SDPOA #7 have been combined for billing purposes at this time.

**1. *Marcus R. Abbe, et al. v. City of San Diego*,
USDC Case No. 05cv1629 DMS (SDPOA #2)**

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

The Plaintiffs contend that their rights to compensation, including overtime pay, under the Fair Labor Standards Act have been violated by the City. The Plaintiffs are demanding \$250 million in compensation.

The District Court has granted partial summary judgment in favor of the City. The Plaintiffs are in the process of appealing the summary judgment ruling and the District Court has stayed proceedings in the interim.

**2. *San Diego Police Officers' Association v. City of San Diego*,
Superior Court Case No. 37-2007-00082592-CU-OE-CTL (SDPOA #7)**

After the District Court in SDPOA #2 determined that the Plaintiff police officers are subject to an exemption under the Fair Labor Standards Act ("Section 207(k) exemption") for payment of overtime, the SDPOA filed this lawsuit in State Court. The SDPOA seeks a writ of mandate for violation of the Meyer-Milias Brown Act. The SDPOA contends that the City cannot unilaterally impose such an exemption from payment of overtime.

In Closed Session on September 9, 2008, the Council was informed of the status of SDPOA #2 and SDPOA #7. The Council was informed of the need for additional funding and that funding would come from the Public Liability Fund.

The total amount requested for these two cases in this resolution is an additional \$500,000 for Latham & Watkins. An additional request for \$2 million will be made in January to cover the legal expenses of the upcoming trial.

FISCAL CONSIDERATIONS:

Authorize an additional \$500,000 to provide the defense to the City of San Diego in SDPOA #2 *Marcus R. Abbe, et al. v. City of San Diego*, USDC Case No. 05cv1629 DMS and SDPOA #7 *San Diego Police Officers' Association v. City of San Diego*, Superior Court Case No. 37-2007-00082592-CU-OE-CTL.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On September 9, 2008, the City Council voted in Closed Session on Item CS-5, *Marcus Abbe, et al. v. City of San Diego*, U.S. District Court Case No. 05cv1629 and 06cv538 DMS (RBB)("POA"II), to authorize continued retention of Latham & Watkins LLP, and \$500,000 of additional funding for outside counsel. The motion was made by Council President Pro Tem Madaffer and the second by Councilmember Hueso. The motion passed 7 to 0 with Councilmember Young absent.

The Council was informed in Closed Session on January 22, 2008, of the need for additional authorized funding for defense of POA #2 and POA #7. Councilmember Frye moved to authorize the additional funding which was seconded by Council President Peters. The motion passed 5 to 1 with Councilmember Hueso voting "No." Councilmembers' Faulconer and Atkins were absent.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Latham & Watkins, LLP.

Tomanek

Aud. Cert. 2900366.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:45 p.m. – 3:01 p.m.)

MOTION BY FRYE TO ADOPT. Second by Faulconer. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-nay, Frye-yea, Emerald-yea, Hueso-yea.

- * ITEM-103: Ratification of the Results of the Annual Election of the Centre City Redevelopment Project Area Committee and Centre City Advisory Committee of the San Diego Redevelopment Agency and the City of San Diego-General. (Districts 2 and 8.)

(See Centre City Development Corporation Report No. CCDC-08-22.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-658) ADOPTED AS RESOLUTION R-304540

Approving as constituting a representative PAC and CCAC, the Project Area Committee (PAC) for the Centre City Redevelopment Project (Project) and the Centre City Advisory Committee (CCAC), including those persons who received the highest number of votes in their respective categories, and listed on Attachment A, attached hereto and incorporated by this reference;

Finding that the election results of October 27, 2008, and October 28, 2008, are valid and binding in accordance with the Procedures of the PAC and the Bylaws of the CCAC and PAC and so ratifies said election results;

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

SUPPORTING INFORMATION:

In accordance with Council procedures regarding the formation of the PAC and CCAC, Council ratification of the annual election results is required.

FISCAL CONSIDERATIONS: None.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:

On November 19, 2008, the Centre City Development Corporation unanimously ratified the results of the PAC/CCAC annual elections.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

Nicholas/Kaiser

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:52 a.m. – 11:53 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Young. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-104: Appointments to the Commission on Gang Prevention and Intervention.

(See memorandum from Mayor Sanders dated 11/17/2008, with resumes attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-701) ADOPTED AS RESOLUTION R-304541

Council confirmation of the following appointments by the Mayor of the City of San Diego, to serve as members of the Commission on Gang Prevention and Intervention, for terms ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Rosa Ana Lozada (Bonita) (Replacing Benita Page who is not seeking reappointment)	Community-Based Organization Representative	July 1, 2010
Danny Villareal (Golden Hill, District 8) (Replacing Conrad Harris, who has resigned)	Reformed Ex-Gang Member	July 1, 2010

Declaring that pursuant to Council Policy 000-13, for purposes of deliberation and consideration of appointment, it is determined that Rosa Ana Lozada 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 Commission. Therefore, a conscious exception to Council Policy 000-13 is hereby declared.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:52 a.m. – 11:53 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Young. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-105: China Camp Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-692) ADOPTED AS RESOLUTION R-304542

Commending China Camp for their historic, cultural and culinary contributions to the City of San Diego;

Proclaiming December 2, 2008, to be "China Camp Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:52 a.m. – 11:53 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Young. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-106: Reappointments to the Citizens Equal Opportunity Commission.

(See memorandum from Mayor Sanders dated 11/18/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-707) ADOPTED AS RESOLUTION R-304543

Council confirmation of the following reappointments by the Mayor of the City of San Diego, to serve as members of the City of San Diego Citizens Equal Opportunity Commission, for terms ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Bradford Barnum (Pacific Beach, District 6) (Reappointment)	At-Large Member	January 1, 2011
Eileen Chaske (Golden Hill, District 3) (Reappointment)	American Indian Member	January 1, 2011
Alden Salcedo (Scripps Ranch, District 5) (Reappointment)	Filipino Member	January 1, 2011
Dr. Shirley Weber (Oak Park, District 4) (Reappointment)	African-American Member	January 1, 2011
Rebecca Llewellyn (Point Loma, District 2) (Reappointment)	At-Large Member	January 1, 2010
Dr. Sarah Young (Mira Mesa, District 5) (Reappointment)	Disabled Member	January 1, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:52 a.m. – 11:53 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Young. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-107: Reappointments to the Parking Advisory Board.

(See memorandum from Mayor Sanders dated 11/14/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-702 Rev.) ADOPTED AS AMENDED AS
RESOLUTION R-304550

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

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Frank Alessi (Carmel Valley, District 1) (Reappointment)	Downtown Community Parking District	December 31, 2010
Ernestine Bonn (North Park, District 3) (Reappointment)	District 3 Representative	December 31, 2010
John Cunningham (Downtown, District 2) (Reappointment)	District 2 Representative	December 31, 2010
Martin Mosier (La Jolla, District 1) (Reappointment)	District 1 Representative	December 31, 2010
Paul Robinson (Downtown, District 2) (Reappointment)	At-Large Representative	December 31, 2010

Linda Stanley
(Clairemont, District 6)
(Reappointment)

District 6 Representative

December 31, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:01 p.m. – 3:07 p.m.)

MOTION BY LIGHTNER TO ADOPT AS AMENDED TO EXCLUDE THE RECOMMENDATION FOR COUNCIL DISTRICT 1 TO ALLOW COUNCIL MEMBER LIGHTNER TO SUBMIT A RECOMMENDATION TO THE MAYOR; AND TO INCLUDE INFORMATION ON WHETHER MEMBERS OF BOARDS AND COMMISSIONS ARE PAID/REGISTERED LOBBYISTS. Second by Frye. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-108: Reappointment to the Civil Service Commission.

(See memorandum from Mayor Sanders dated 11/20/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-700) ADOPTED AS RESOLUTION R-304544

Council confirmation of the following reappointment by the Mayor of the City of San Diego, to serve as a member of the Civil Service Commission, for a term ending as indicated:

NAME

TERM ENDING

Mattheus Stephens
(Talmadge, District 3)
(Reappointment)

January 9, 2014

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:52 a.m. – 11:53 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Young. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-109: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-15) ADOPTED AS RESOLUTION R-304545

Declaring a continued state of emergency to persist relative to the landslide on Mount Soledad, pursuant to California Government Code Section 8630;

Declaring that the measures previously authorized by the City Council in Resolution No. R-303041 shall continue to have full force and effect.

FILE LOCATION: GEN'L – State of Emergency Regarding the Landslide on Mount Soledad

COUNCIL ACTION: (Time duration: 11:52 a.m. – 11:53 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Young. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

* ITEM-110: Declaring a Continued State of Emergency Regarding the Wildfires.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-428) ADOPTED AS RESOLUTION R-304546

Declaring a continued state of emergency to exist in the City of San Diego due to the wildfires which began on October 21, 2007, pursuant to California Government Code Section 8630;

Declaring that the measures previously taken by the City Council in Resolution No. R-303098 shall continue to have full force and effect.

FILE LOCATION: GEN'L – State of Emergency Regarding the Wildfires

COUNCIL ACTION: (Time duration: 11:52 a.m. – 11:53 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Young. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

- * ITEM-111: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (District 8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-581) ADOPTED AS RESOLUTION R-304547

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L – State of Emergency Regarding the Discharge of Raw Sewage to Tijuana, Mexico

COUNCIL ACTION: (Time duration: 11:52 a.m. – 11:53 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Young. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

- * ITEM-112: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-613) ADOPTED AS RESOLUTION R-304548

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L – State of Emergency Due to Severe Shortage of Affordable Housing in the City

COUNCIL ACTION: (Time duration: 11:52 a.m. – 11:53 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Young. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

ITEM-330: Appointment of Council President Pro Tem and City Council Committee Assignments for Calendar Year 2009.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Take the following actions:

(R-2009-) CONTINUED TO TUESDAY, DECEMBER 16, 2008.

In the matter of appointing a Council President Pro Tem for Calendar Year 2009;

In the matter of appointing Councilmembers to Council Committees for Calendar Year 2009;

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:03 p.m. – 2:06 p.m.)

MOTION BY YOUNG TO CONTINUE TO TUESDAY, DECEMBER 16, 2008, AT THE REQUEST OF COUNCIL PRESIDENT HUESO FOR FURTHER REVIEW. Second by Faulconer. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

ITEM-331: Discussion of the Permanent Rules of Council.

(See memorandum from Councilmember Donna Frye and Councilmember-Elect Carl DeMaio dated 11/13/2008.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

(O-2009-) DISCUSSED/REFERRED TO RULES COMMITTEE

Informational discussion of the Permanent Rules of Council and whether any amendments should be made to alter the way the City Council conducts business. If desired, the Council can:

1. Direct the City Attorney to draft ordinance language and refer to the Rules Committee for future review and action; or
2. Refer this topic to the Rules Committee for further discussion and possible recommendations.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:07 p.m. – 3:59 p.m.)

MOTION BY DEMAIO TO REFER THE ENTIRE PACKAGE TO THE RULES COMMITTEE AND RETURN TO COUNCIL NO LATER THAN MARCH 10, 2009, WITH THE INITIAL PACKAGE OF RECOMMENDATIONS. Second by Frye. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

ITEM-332: Reconsideration of City Council Resolution regarding Retention of the Law Offices of Dorn G. Bishop APC for Legal Services for Case *Shipyards Sediment Site California Regional Water Quality Control Board Tentative Cleanup and Abatement Order No. R9-2005-0126*, vetoed by the Mayor on November 13, 2008. (District 8.)

(See Veto Memorandum from Mayor Sanders dated November 13, 2008.)

Pursuant to San Diego Charter Section 285, the Council shall reconsider Resolution R-2009-441, passed by City Council with a Unanimous vote on October 28, 2008, Item 107, which was vetoed by the Mayor on November 13, 2008. If after such reconsideration, at least five members of the Council vote in favor of passage, the resolution shall become effective notwithstanding the Mayor's veto.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-441) RECONSIDERED/ADOPTED AS
RESOLUTION R-304319

Authorizing the City Attorney to retain the Law Offices of Dorn G. Bishop APC for services in the *Shipyards Sediment Site California Regional Water Quality Control Board Tentative Cleanup and Abatement Order No. R9-2005-0126*, in an amount not to exceed \$150,000;

Authorizing the City Comptroller to expend up to \$150,000 from the Public Liability Fund on this matter.

SUPPORTING INFORMATION:

This matter involves a Tentative Cleanup and Abatement Order issued by the California Regional Water Quality Control Board ("Board") relating to the area of San Diego Bay including the north of Chollas Creek. Dorn G. Bishop will review insurance coverage issues for the City.

FISCAL CONSIDERATIONS:

The City shall compensate The Law Offices of Dorn G. Bishop APC based on its hourly rates for consulting services. This request has a not-to-exceed amount of \$150,000 and will be borne by the Public Liability Fund.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

In the Closed Session Meeting of July 22, 2008, the City Council voted on Item CS-3, entitled *Shipyards Sediment Site California Regional Water Quality Control Board Tentative Cleanup and Abatement Order No. R9-2005-0126*, to approve retention of The Law Firm of Dorn G. Bishop APC to review insurance coverage in the matter in defense of the City. The motion was made by Council President Pro Tem Madaffer and the second by Councilmember Hueso. The motion passed 6 to 0 with Councilmembers Young and Maienschein absent.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

The Law Firm of Dorn G. Bishop

Tomanek

Aud. Cert. 2900254.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:01 p.m. – 4:05 p.m.)

MOTION BY FAULCONER TO RECONSIDER AND ADOPT. Second by Hueso.
Passed by the following vote: Lightner-yea, Falconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

ITEM-333: Casa Mira View, Project No. 91647. An application for a Rezone to change the zone of the property, an Easement Vacation, Vesting Tentative Map, Planned Development Permit and Site Development Permit to allow the subdivision and development on a 41.31 acre site at 11195 Westview Parkway on six parcels along the east side of Westview Parkway between Dauntless Street and Mira Mesa Boulevard. (Mira Mesa Community Plan Area. District 5.)

Matter of approving, conditionally approving, modifying or denying an application for a Rezone to change the zone of the property from the RM-3-7 Zone to the RM-3-8 Zone, an Easement Vacation, Vesting Tentative Map, Planned Development Permit and Site Development Permit to allow the subdivision and development of 1,848 condominium dwelling units, three parking structures, recreation amenities, landscaping, and minor public improvements on a 41.31 acre site at 11195 Westview Parkway on six parcels along the east side of Westview Parkway between Dauntless Street and Mira Mesa Boulevard in the Mira Mesa community.

* 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.

NOTE: Continued from the meeting of October 28, 2008, Item 336, at the request of Councilmember Maienschein for further review.

Hearing Open. No testimony taken.

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2009-) CONTINUED TO TUESDAY, JANUARY 6, 2009

Certifying that Environmental Impact Report No. 91647/SCH No. 2007111095, 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, easement vacation, vesting tentative map, and planned development permit/site development permit for the Casa Mira View 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 and incorporated herein by reference;

Declaring that pursuant to California Code of Regulations Section 14093, 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;

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-) CONTINUED TO TUESDAY, JANUARY 6, 2009

Changing 56.30 acres located on the east side of Westview Parkway, north of Mira Mesa Boulevard, within the Mira Mesa Community Plan Area, in the City of San Diego, California, from the RM-3-7 Zone into the RM-3-8 Zone, as defined by San Diego Municipal Code Section 131.0400, and repealing Ordinance No. O-18451 (New Series), adopted December 9, 1997, of ordinances of the City of San Diego insofar as the same conflicts herewith;

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

Subitem-C: (R-2009-) CONTINUED TO TUESDAY, JANUARY 6, 2009

Certifying findings with respect to Vesting Tentative Map No. 481936 and Easement Vacation No. 368513;

Declaring the findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Granting Vesting Tentative Map No. 481936 and Easement Vacation No. 368513 to Scripps Mesa Developers, LLC, a California Limited Liability Company, Applicant/Subdivider and John D. Leppert, Engineer, subject to the attached conditions;

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

Subitem-D: (R-2009-) CONTINUED TO TUESDAY, JANUARY 6, 2009

Certifying findings with respect to Planned Development Permit No. 294375/Site Development Permit No. 294373;

Declaring the findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Granting Planned Development Permit No. 294375/Site Development Permit No. 294373 to Scripps Mesa Developers, LLC, a Limited Liability Company, Owner/Permittee, under the terms and conditions set forth in the attached permit;

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

OTHER RECOMMENDATIONS:

Planning Commission on October 2, 2008, voted 4-0-3 to approve this project and recommended the applicant look into the sustainability aspects.

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

The Mira Mesa Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Rezone of the property from the RM-3-7 Zone to the RM-3-8 Zone, Easement Vacation, Vesting Tentative Map, Planned Development Permit and Site Development Permit to subdivide and develop 1,848 dwelling units on a 41.31 acre site within the Mira Mesa Community Plan.

STAFF RECOMMENDATION:

1. **Certify** Environmental Impact Report No. 91647, **adopt** the Findings and Statement of Overriding Considerations, and **adopt** the Mitigation Monitoring and Reporting Program; and
2. **Adopt** Rezone No. 481935 and **approve** Easement Vacation No. 368513, Vesting Tentative Map No. 481936, Planned Development Permit No. 294375 and Site Development Permit No. 294373.

EXECUTIVE SUMMARY:

The General Plan and Mira Mesa Community Plan designate the site for Medium High Density Residential at a density range of 30-45 dwelling units per acre. The site, within the RM-3-7 Zone, is proposed to be rezoned to the RM-3-8 Zone. The project site is located in an urban setting and is surrounded by existing development and major transportation corridors. Single-family residential subdivisions are located to the north and northwest. Westview Neighborhood Park and Hage Elementary School are located across the street on the west side of Westview Parkway. Mesa Shopping Center and an existing park-n-ride facility maintained by Caltrans are located south of the site. Along the easterly property line is Interstate 15.

The project site was included as part of the development agreement entitled "Development Agreement between the City of San Diego and Pardee Homes Construction Company Negotiated and Entered Into Pursuant to City Council Policy 600-37 adopted by the City Council on August 8, 1988, and as Amended on September 13, 1988," and is identified as the "Casa Mira View" project. This development agreement was adopted by the City Council by Ordinance O-17178 on November 14, 1988. All developer obligations from the DA have been satisfied.

The proposed development would include 1,848 residential multi-family dwelling units within three five-story residential buildings with a combined area of 3,015,560 square feet. Of the 1,848 dwelling units, 185 units would be affordable units through an agreement with the Housing Commission. Of these 185 units, 40 units would be located off-site at the Legacy project in Mira Mesa and the remainder would be on the project site. The project would also be LEED certified.

Staff has reviewed the request for a Rezone, Easement Vacation, Vesting Tentative Map, Planned Development Permit and Site Development Permit to allow the project and determined the project is consistent with all relevant adopted City Council policies and regulations of the Land Development Code. An Environmental Impact Report has been prepared for the project, Findings and Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program are required to approve the proposal. Staff has provided draft findings to support approval of the Easement Vacation, Subdivision Map and Development Permits and Draft Conditions of Approval. Staff recommends the City Council approve the project as proposed.

FISCAL CONSIDERATIONS:

No fiscal impact. All costs associated with the processing of the application are recovered through a deposit account funded by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On October 2, 2008, the Planning Commission recommended staff's recommendation by unanimous vote of 4:0:0. The Mira Mesa Community Planning Group, on July 21 2008, voted unanimously to recommend approval of the project as proposed.

KEY STAKEHOLDERS: Scripps Mesa Developers, LLC

Broughton/Anderson/JF

Staff: John Fisher – (619) 446-5231
Shirley R. Edwards – Deputy City Attorney

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:52 a.m. – 11:53 a.m.)

MOTION BY DEMAIO TO CONTINUE TO TUESDAY, JANUARY, 6, 2009, FOR FURTHER REVIEW. Second by Young. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

ITEM-S500: Amending the Fiscal Year 2009 Appropriation Ordinance.

STAFF’S RECOMMENDATION:

Introduce and adopt the following ordinance:

(O-2009-83 Rev.) INTRODUCED AND ADOPTED AS AMENDED WITH DIRECTION AS ORDINANCE O-19822 (New Series)

Introduction and adoption of an ordinance amending Ordinance No. O-19774 (New Series) entitled “An Ordinance Adopting the Annual Budget for the Fiscal Year 2009 and Appropriating the Necessary Money to Operate the City of San Diego for said Fiscal Year;”

Authorizing Amendment to the Fiscal Year 2009 Annual Budget;

Adopting the budget adjustments detailed in Resolution No. R-304447;

Waiving the provision of San Diego Municipal Code Section 35.0128(a) restricting the Transient Occupancy Tax Fund solely for the purpose of promoting the City for Fiscal Year 2009 to the extent necessary to implement Resolution No. R-304447;

Authorizing the City Comptroller to make transfers from the Infrastructure Improvement Fund (10529) and/or the individual Council District budget, as directed by the Councilmember, necessary to meet the \$49,500 per District reduction contemplated in Resolution No. R-304447;

Authorizing the City Comptroller to make all reimbursements, transfers, and adjustments necessary to implement Resolution No. R-304447.

SUPPORTING INFORMATION:

After two public budget hearings, the City Council adopted Budget Resolution No. R-304447 on November 24, 2008, containing its modifications to the Mayor's proposed revised budget for Fiscal Year 2009; and

On December 3, 2008, the Mayor vetoed Resolution No. R-304447, rendering Ordinance No. O-19810 void; and

On December 5, 2008, the Council voted unanimously to override the Mayor's veto; and

On November 24 and December 1, 2008, the City Council held two public hearings on the amended Budget Resolution and the related impacts to the Appropriation Ordinance as required by Section 71 of the Charter of the City of San Diego.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:05 p.m. – 4:30 p.m.)

MOTION BY FAULCONER TO INTRODUCE, DISPENSE WITH THE READING, AND ADOPT THE ORDINANCE AS AMENDED BY COUNCIL MEMBER FRYE WITH A REQUEST THAT THE MAYOR PROVIDE A COMPREHENSIVE REPORT REGARDING THE ECONOMIC GROWTH SERVICES DEPARTMENT AND HOW THE WORKFORCE IS IMPACTED BY FEBRUARY 2 OR 3, 2009; AND TO PROVIDE THE REPORT TO THE INDEPENDENT BUDGET ANALYST. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-nay, Frye-yea, Emerald-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Hueso at 4:34 p.m. in honor of the memory of:

Michael Taylor, Jr. as requested by Council Member Young; and
Monique Ashely Palmer as requested by Council Member Young.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 4:32 p.m. – 4:34 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, DECEMBER 8, 2008
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council Member Young at 2:02 p.m. The meeting was adjourned by Council Member Young at 2:28 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Lightner-not present
 - (2) Council Member Faulconer-present
 - (3) Council Member Gloria-present
 - (4) Council Member Young-present
 - (5) Council Member DeMaio-present
 - (6) Council Member Frye-present
 - (7) Council Member Emerald-present
 - (8) Council Member Hueso-present
- Clerk-Maland (sr)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Lightner-not present
- (2) Council Member Faulconer-present
- (3) Council Member Gloria-present
- (4) Council Member Young-present
- (5) Council Member DeMaio-present
- (6) Council Member Frye-present
- (7) Council Member Emerald-not present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Reverend Dr. Emma Moore-Kochlas of La Jolla United Methodist Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Faulconer

FILE LOCATION: MINUTES

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Faulconer welcomed the new Council Members.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:05 p.m. - 2:06 p.m.)

COUNCIL COMMENT-2:

Council Member Young commented on the deaths of two students in District 4 over the weekend.

FILE LOCATION: MINUTES

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

CLOSED SESSION ITEMS:

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

**CS-1 *City of San Diego v. Gabriel, Roeder, Smith & Co.*
San Diego County Superior Court Case No. GIC852419 (Severed)**

REFERRED TO CLOSED SESSION OF TUESDAY, DECEMBER 9, 2008

DCA Assigned: D. Bamberg

This is a lawsuit filed by the City of San Diego against, among others, Gabriel Roeder Smith & Company and Rick A. Roeder, individually. In closed session, the Mayor and City Council will meet with Deputy City Attorneys Daniel F. Bamberg and Andrew Jones to discuss a potential settlement of the matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:09 p.m. - 2:09 p.m.)

Council Member Young closed the hearing.

**CS-2 *Marcus Abbe, et al. (190+ Individual Police Officers) v. City of San Diego*
United States District Court Case No. 05 CV 1629 DMS;
and 06 CV 0538 DMS (RBB) ("POA II")**

REFERRED TO CLOSED SESSION OF TUESDAY, DECEMBER 9, 2008

DCA Assigned: G. Schaefer

Over 1500 former and current San Diego police officers sued the City in federal court for unpaid wages, including overtime. The federal court conducted a settlement conference on November 21, 2008 that resulted in an impasse. The jury trial is set to commence on January 5, 2009. The City Attorney needs to brief the Mayor and City Council in closed session on the status of the litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:09 p.m. - 2:09 p.m.)

Council Member Young closed the hearing.

ITEM-200: Selection of a Council President for Calendar Year 2009.

(See memorandum from the City Attorney dated 11/18/2008; memorandum from Council President Peters dated 11/3/2008; and memorandum from Councilmembers Faulconer, Maienschein, and Frye dated 11/3/2008.)

(Continued from the meeting of November 18, 2008, Item 334, at the request of Councilmember Hueso, for further review. Councilmember Young is designated to run the meeting.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Take the following actions:

(R-2009-) TRAILED TO TUESDAY, DECEMBER 9, 2008

Council is asked to consider the matter of selecting a Council President for Calendar Year 2009, and to take such actions as the Council deems appropriate. These actions may include:

1. Select a new Council President for Calendar Year 2009;
2. Select an Interim Council President until a date certain;
3. Continued the matter of selection of a Council President for Calendar Year 2009 to a later date.

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:09 p.m. - 2:26 p.m.)

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

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ADJOURNMENT:

The meeting was adjourned by Council Member Young at 2:28 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:28 p.m. - 2:28 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego