

000185

**UNAPPROVED**

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, NOVEMBER 17, 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 2:05 p.m. Council President Peters recessed the meeting at 4:35 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:41 p.m. with Council Member Frye not present. Council President Peters recessed the meeting at 5:51 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 6:03 p.m. with Council Member Maienschein and Council Member Frye not present. The meeting was adjourned by Council President Peters at 6:58 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-not present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

Clerk-Maland (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-not present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Wayne Wester of First Baptist Church of Mira Mesa.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council President Pro Tem Madaffer.

FILE LOCATION: MINUTES

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Minutes of the Council of the City of San Diego  
for the Regular Meeting of Monday, November 17, 2008

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COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Atkins commented on the format of the Budget Committee meeting scheduled for November 19, 2008.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:11 p.m. - 2:12 p.m.)

COUNCIL COMMENT-2:

Council Member Young thanked Washington Mutual and Community Housing Works for participating in the Smart Money Summit Series.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:12 p.m. - 2:13 p.m.)

CLOSED SESSION ITEMS:

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

**CS-1 *Blackwater Lodge and Training Center, Inc. v. Broughton et al.*  
United States District Court Case No. 08-CV-0926-H**

**REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 18, 2008**

CDCA Assigned: M. Severson

DCAs Assigned: C. Brock, R. Walters, and G. Schaefer

Plaintiff filed its complaint against the City of San Diego, Kelly Broughton, and Afsaneh Ahmadi in federal district court claiming Plaintiff would be irreparably harmed if it was not allowed to immediately occupy a leased industrial warehouse in the City's planned Otay Mesa Development District to conduct training programs. The City Attorney will discuss the status of the litigation and Plaintiff's proposal for resolution of the case.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:22 p.m. - 5:22 p.m.)

**Council President Peters closed the hearing.**

**CS-2 *Valerie O'Sullivan v. City of San Diego***

**San Diego Superior Court Case No. GIC 826918; Court of Appeal Case No. 826918**

***La Jolla Friends of the Seals, et al v. National Oceanic and Atmospheric Administration National Marine Fisheries Service, et al.***

**U.S. District Court Case No. 08CV1847 WQH POR**

***Animal Protection Rescue League v. State of California, et al.***

**United States District Court No. 07-cv-2320-JM-AJB; Ninth Cir. Case No. 08-55319;  
United States Supreme Court Case No. 08-561**

**REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 18, 2008**

DCA Assigned: G. Schaefer

In the first case, a Superior Court Judge rendered a judgment against the City and ordered the City to dredge Children's Pool Beach. In the second case, a non-profit organization and a citizen recently sued the City and the Federal Government over whether a federal permit is necessary to remove a seal colony at Children's Pool and whether a rope barrier must be installed during the seal pupping season. In the third case, a similar lawsuit was brought against the City and the federal court dismissed the lawsuit. The Plaintiffs have filed an appeal to the United States Supreme Court. The City Attorney needs to discuss in closed session with the Mayor and the City Council the status of all three of these cases.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:22 p.m. - 5:22 p.m.)

**Council President Peters closed the hearing.**

**CS-3 *Marcus Abbe, et al. [190+ Individual Police Officers] v. City of San Diego [POA2]*  
United States District Court Case No. 05 CV 1629 DMS; 06 CV 0538**

**REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 18, 2008**

EACA Assigned: D. McGrath  
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 jury trial is set to commence on January 5, 2009. The federal court has scheduled a settlement conference for November 21, 2008. The City Attorney needs to brief the Mayor and City Council in closed session on the status of the litigation and confer in preparation for the settlement conference.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:22 p.m. - 5:22 p.m.)

**Council President Peters closed the hearing.**

**CS-4 *John Trunkey, et al. v. City of San Diego*  
Claim No. LP07-0705-1147**

**REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 18, 2008**

DCA Assigned: R. Palmucci

This matter involves an un-litigated claim arising out of a water main break that caused extensive damage to the La Jolla home of claimant John Trunkey on December 17, 2006. The City Attorney requests that the Mayor and City Council be informed of a possible settlement of this claim in closed session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:22 p.m. - 5:22 p.m.)

**Council President Peters closed the hearing.**

**CS-5 *Grantville Action Group v. The City of San Diego, et al.*  
San Diego County Superior Court Case No. 37-2008-0092628-CU-MC-CTL**

**REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 18, 2008**

DCA Assigned: G. Spitzer

This litigation relates to a challenge to the settlement of the Grantville Redevelopment Plan validation action, which settlement the Redevelopment Agency and City Council approved on July 29, 2008. City Council and the Redevelopment Agency will confer with the City Attorney regarding the litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:22 p.m. - 5:22 p.m.)

**Council President Peters closed the hearing.**

**CS-6 *Estate of Jacob Faust, et al. v. City of San Diego*  
San Diego Superior Court Case No. GIC 880142**

**REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 18, 2008**

DCA Assigned: D. Shanahan

The *Estate of Jacob Faust, et al. v. City of San Diego* matter is an action filed by Richard and Lynn Faust for wrongful death-negligence and wrongful death-battery, resulting from the officer-involved shooting death of their son. In closed session, the City Attorney will brief the Mayor and City Council on this matter and recommend settlement.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:22 p.m. - 5:22 p.m.)

**Council President Peters closed the hearing.**

**CS-7 *Chapin and Castleman v. Aguirre and City of San Diego, et al.*  
Federal District Court Case No. 05CV1906 R (POR)**

**REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 18, 2008**

DCA Assigned: W. Chung

The *Chapin and Castleman v Aguirre and City of San Diego, et al.* matter is an action filed by James Chapin and Penny Castleman for wrongful constructive termination. In closed session, the City Attorney will brief the Mayor and the City Council on the status of this matter and discuss the continued retention of outside counsel to handle this litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:22 p.m. - 5:22 p.m.)

**Council President Peters closed the hearing.**

**CS-8 *Todd Sabin, Stacy Sabin, Stephen Games, Sandra Games v. City of San Diego*  
(San Diego Superior Court Case No. 37-2008-00090721-CU-PA-CTL;**

*City of San Diego v. Todd Sabin, et al.*  
San Diego Superior Case No. 37-2008-00081284-CU-OR-CTL)

**REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 18, 2008**

DCA Assigned: M. Dickenson

These matters concern certain property owners' encroachments on a City street and a related settlement agreement resulting from prior litigation. The City Attorney will update the Mayor and City Council on the status of the litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:22 p.m. - 5:22 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-9 In re matter of City of San Diego filing bankruptcy proceedings for reorganization.**

**REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 18, 2008**

EACA Assigned: D. McGrath

In closed session, the City Attorney will discuss with the Mayor and the City Council the City of San Diego's possible Chapter 9 proceeding and the need to retain Orrick, Herrington, counsel for the City of Vallejo.

Closed Session Comment 1:

Joy Sunyata commented on the structural budget deficit.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:23 p.m. - 5:26 p.m.)

**Council President Peters closed the hearing.**

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

**CS-10 Agency Negotiator:** Scott Chadwick, Jay Goldstone

**Employee Organization:** AFSCME Local 127

**REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 18, 2008**

CDCA Assigned: Alan Hersh

DCA Assigned: Bill Gersten

Conference with Labor Negotiators regarding negotiated settlement of language and remedy contained in City-Local 127 MOU Article 44, A. 2, and the taking of possible action in connection therewith.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:22 p.m. - 5:22 p.m.)

**Council President Peters closed the hearing.**

ITEM-200: Two actions related to Special Promotional Programs Appropriation Change and Transient Occupancy Tax Use Waivers.

**STAFF'S RECOMMENDATION:**

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

Subitem-A: (O-2009-69) INTRODUCED, TO BE ADOPTED TUESDAY,  
DECEMBER 2, 2008

Introduction of an Ordinance authorizing the Comptroller to transfer \$142,210 in expenditure appropriations within the Special Promotional Programs (Transient Occupancy Tax Fund 10220) from the Convention Center Expansion Project Fund TOT Transfer Allocation (Dept. 921, Org. 2008) to the entity San Diego World Trade Center/Local Access to Global Markets Allocation (Dept. 922, Org. 2019);

Authorizing the Comptroller to reduce the revenue budget of the Convention Center Expansion Project Fund (Fund 102212, Dept. 102212, Org. 1000) by \$142,210.

Subitem-B: (R-2009-551 Cor. Copy)      ADOPTED AS RESOLUTION R-304358

Adoption of a Resolution waiving certain provisions of Council Policy 100-03 as follows:

1. Section B1 of Attachment A is waived for Horton Plaza Theatres Foundation (Horton Plaza) to allow for funding advances;
2. Section B2 of Attachment A is waived for Horton Plaza to allow the organization to incur expenses outside of the fiscal year;
3. Section B4 of Attachment A is waived for Horton Plaza to allow funding for capital or equipment outlay for repairs, maintenance, equipment replacement, equipment purchases and capital reserves to maintain the theatre in operable condition; and
4. Section B3 of Attachment A is waived for San Diego Regional Economic Development Corporation to allow funding for travel, meals, and lodging related to trade shows, conferences, and business meetings in order for the organization to perform the contractual scope of services to the City;

Declaring that nothing contained in this resolution shall be deemed to constitute a waiver of the ban prohibiting the use of TOT funds for the purchase of alcoholic beverages.

**STAFF SUPPORTING INFORMATION:**

Waivers are requested on certain provisions of Council Policy 100-03 which sets forth the policies and guidelines regarding the funding, budgeting and granting of TOT funds to private non-profit organizations. Waivers of certain provisions of this Policy have been requested in prior years in the Appropriation Ordinance and approved by Council. These waivers were not included in the Fiscal Year 2009 Appropriation Ordinance but are still essential to a few organizations. The provisions are highlighted below along with the organizations requiring the waivers:

Section B-1

Waiving Section B-1 of Council Policy 100-03 allows organizations contracted with the City to receive advances of City funding. With the waiver approved, and according to the contracts in place with these organizations, funding is distributed in advance of expenditures in prorated installments throughout the fiscal year. All financial reporting requirements of the policy must still be met, including monthly and annual reporting of expenditures subject to audit. A waiver to Section B-1 is requested for the following organization for the following purpose:

Horton Plaza Theatres Foundation (Horton Plaza)

Horton Plaza is funded solely by the City's TOT. This waiver is necessary for Horton Plaza to meet its cash flow obligations related to management and maintenance of the theatre. Horton Plaza was formed in 1983 by the City Council to oversee the Lyceum Theatre, which is owned by the City of San Diego's Redevelopment Agency.

Section B-2

Waivers to section B-2 of Council Policy 100-03 allow organizations to incur expenses outside of the City's fiscal year (July 1 - June 30) for which the program is funded. A waiver to section B-2 is requested by the following organization for the following purpose:

Horton Plaza Theatres Foundation (Horton Plaza)

Funding for repairs and maintenance of the theatre may carryover from one fiscal year to the next.

Section B-3

Council Policy 100-03 allows waivers to section B-3 for travel, meals, and lodging when travel, meals, or lodging are required in order for the organization to perform the contractual scope of services to the City. The policy does not allow waivers for alcoholic beverages and further states that alcoholic beverages consumed with meals are not reimbursable with City funds. Waivers to Section B-3 are requested by the following organization for these purposes:

San Diego Regional Economic Development Corporation

Funding is needed for travel, meals, and lodging related to trade shows, conferences, and business meetings in order to attract companies to San Diego.

Section B-4

Waivers to section B-4 of Council Policy 100-03 allow organizations to use City funding for capital or equipment outlay; for purchase of awards, trophies, gifts, or uniforms; and/or for the buildup of reserves. A waiver to section B-4 is requested by the following organization for the following purpose:

Horton Plaza Theatres Foundation (Horton Plaza)

Funding is needed for repairs, maintenance, equipment replacement, equipment purchases, and capital reserves in order to maintain the theatre in operable condition.

Additionally, due to a technical error during the Fiscal Year 2009 budget preparation, the San Diego World Trade Center only received \$69,790, of their fully allocated amount of \$212,000. It is requested that a transfer of \$142,210 in expenditure appropriations within Special Promotional Programs (Transient Occupancy Tax Fund 10220) from the Convention Center Expansion Project Fund TOT transfer allocation (Dept. 921, Org. 2008) to the entity San Diego World Trade Center/Local Access to Global Markets (Dept. 922, Org. 2019). This will also reduce the revenue budget of the Convention Center Expansion Project Fund (Fund 102212, Dept. 102212, Org. 1000) by \$142,210.

FISCAL CONSIDERATIONS:

There is no fiscal impact resulting from the waivers requested on specific provisions in Council Policy 100-03.

There is no fiscal impact to the Transient Occupancy Tax Fund due to the transfer of \$142,210 in expenditures. The Convention Center Expansion Project Fund would expend \$142,210 from fund balance to mitigate the revenue budget reduction.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: None.

Kessler/Murray

Staff: Scott Kessler - (619) 236-6421  
Kimberly K. Kaelin - Deputy City Attorney

FILE LOCATION: SUBITEM A: NONE  
SUBITEM B: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. - 2:18 p.m.)

MOTION BY FAULCONER TO INTRODUCE THE ORDINANCE IN SUBITEM A AND TO ADOPT THE RESOLUTION IN SUBITEM B. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-not present, Madaffer-yea, Hueso-yea.

ITEM-201: Agreement with Burke, Williams, & Sorensen for Professional Consultant Services.

**STAFF'S RECOMMENDATION:**

Take the following actions:

(R-2009- )                      RETURNED TO THE MAYOR

Authorizing the Mayor, or his designee, to execute an Agreement between the City of San Diego and Burke, Williams & Sorensen (Firm) for consultant services pertaining to the FY2010 contract negotiations with the City's five recognized employee organizations and to provide services related to employment relations matters for wages, hours, working conditions, and other terms and conditions as they apply, in an amount not to exceed \$500,000, on behalf of the City of San Diego with the Firm;

Authorizing the City Comptroller to expend funds in an amount not to exceed \$500,000 from Citywide cost allocations for the Agreement between the City of San Diego and Burke, Williams & Sorensen (Firm);

Declaring that this activity is not a project and is therefore not subject to CEQA pursuant to State Guidelines Section 15060(c)(3);

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

**STAFF SUPPORTING INFORMATION:**

The City of San Diego ("City") has approved Burke, Williams & Sorensen (Firm) as the sole source provider for consulting services pertaining to the FY2010 contract negotiations with the City's five recognized employee organizations and to provide services related to employment relations matters for wages, hours, working conditions, and other terms and conditions as they apply.

This agreement is for a not-to-exceed amount of \$500,000, Burke, Williams & Sorensen will serve as an expert labor relations consultant to the City pertaining to the FY2010 contract negotiations with the City's five recognized employee organizations: San Diego Municipal Employees Association (MEA); the San Diego Police Officers Association (POA); Local 127; American Federal of State, County and Municipal Employees, District Council 36, AFL-CIO (AFSME Local 127); Local 145, International Association of Firefighters (Local 145) and San Diego Deputy City Attorney's Association (DCAA) and will provide services related to employment relations matters for wages, hours, working conditions, and other terms and conditions as they apply.

The scope of work and/or services to be provided by the Firm includes but is not limited to, labor negotiations, oral advice and communications, preparing collective bargaining proposals, counter proposals, briefing materials, presentation, correspondence, services related to employee relations matters for wages, hours, working conditions and other terms and conditions as applied, administrative and City proceedings and other issues as requested by the Office of the Mayor of the City of San Diego.

**EQUAL OPPORTUNITY CONTRACTING:**

Funding Source: City - Prevailing Wages do not apply to this contract.  
Goal Requirement: 15% Voluntary  
Contract Amount: \$500,000  
Other: Work Force Report submitted.

This Agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

FISCAL CONSIDERATIONS:

Expend funds in an amount not to exceed \$500,000 from Citywide cost allocations for the Agreement between the City of San Diego and Burke, Williams & Sorensen (Firm) pertaining to the FY2010 contract negotiations with the City's five recognized employee organizations and to provide services related to employment relations matters for wages, hours, working conditions, and other terms and conditions as they apply.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: None.

Chadwick/Goldstone

Aud. Cert. 2900368.

Staff: Scott Chadwick - (619) 236-5587

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:07 p.m. - 3:39 p.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR'S OFFICE.  
Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea,  
Maienschein-yea, Frye-not present, Madaffer-yea, Hueso-yea.

ITEM-202: Extension of Emergency Medical Services (EMS) Agreements.

(See Report to the City Council No. 08-203.)

**STAFF'S RECOMMENDATION:**

Take the following actions:

(R-2009-685) ADOPTED AS AMENDED AS RESOLUTION R-304359

Authorizing the Mayor, or his designee, to execute an extension of the Emergency Medical Services (EMS) Agreements with the City's current provider, San Diego Medical Services Enterprise (SDMSE) for a period of eighteen (18) months with option to extend for an additional six (6) months if necessary to transition the contract. This time period is subject to approval by the County of San Diego as the local EMS Agency;

Directing the City attorney to prepare the required documents to extend the EMS Agreements;

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

Staff: Debra Fischle-Faulk - (619) 533-4541

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:39 p.m. – 4:34 p.m.)

MOTION BY MADAFFER TO ADOPT THE RECOMMENDATION WITH A THREE-YEAR CONTRACT EXTENSION; IN THE EVENT THAT THE APPROVALS FROM THE STATE OR COUNTY DON'T EXCEED 18 MONTHS THAT APPROVAL OF 18 MONTHS WOULD STILL BE VALID FROM THE CITY COUNCIL. REQUEST THE MAYOR'S OFFICE ISSUE AN RFP FOR A CONTRACT THAT HAS TWO FIVE-YEAR TERMS AND TWO THREE-YEAR EXTENSIONS; THE AWARD SHALL COME BACK TO THE CITY COUNCIL FOR APPROVAL. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-not present, Madaffer-yea, Hueso-yea.

ITEM-203: Authorization to Sell Excess City-Owned Property Located at 8110 Balboa Avenue, San Diego, and Approving Broker Commission. (Kearny Mesa Community Area. District 6.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-517) ADOPTED AS RESOLUTION R-304360

Declaring that certain real property (Property) owned in fee by the City, located at 8110 Balboa Avenue, San Diego, CA [APN 356-231-03], and further described in the "Property Information Summary" is excess City property and may be sold;

Declaring the Property may only be sold for a price equal to or greater than Three Million One Hundred Eighty-Six Thousand Dollars (\$3,186,000);

declaring the Mayor, or his designee, shall have the Property reappraised at least once every twelve months until sold, and the resulting fair market value of the Property shall become the minimum acceptable price, which the Mayor, or his designee, shall report to Council; provided, however, if a re-appraisal results in a fair market value below the minimum price set on the date of this Resolution, the Mayor shall seek Council approval prior to lowering the original minimum price;

Authorizing and directing the Mayor, or his designee, to sell the property through negotiation, public auction, sealed bids, or any combination of such methods, in his discretion;

Authorizing the Mayor, or his designee, in his discretion, to retain, on terms deemed by him to be reasonable and in the best interests of the City, the services of a real estate broker to represent the City and facilitate the sale of the Property, but real estate brokerage participation and brokerage fees shall not exceed 1.00% of the final sale price to CBRE (CB Richard Ellis);

Authorizing the payment of real estate brokerage commissions related to the sale of the Property in compliance with San Diego Municipal Code Section 22.0905, Broker's Fee and Registration;

Authorizing the Mayor, or his designee, to execute and deliver, on behalf of the City, a purchase and sale agreement, grant deed, and all other agreements and documents necessary and on terms and conditions deemed by the Mayor, or his designee, to be reasonable and in the best interests of the City to consummate the sale;

Authorizing and directing the City Comptroller to accept the proceeds of the sale of the Property, net of brokerage commissions and other costs of selling the Property, and deposit them into the Capital Outlay Fund;

Declaring if after attempting to sell the Property at the minimum price specified herein, the Mayor, or his designee, determines that the Property cannot be sold at or above the minimum acceptable price, the Mayor is directed to seek review and additional direction from the Council as to the disposition of the Property.

#### **STAFF SUPPORTING INFORMATION:**

In accordance with Council Policy 700-10 governing the sale and leasing of the City's Real Estate Assets, the Mayor's staff is reviewing the City's property inventory to determine which properties are no longer needed and whose disposition will provide a greater public benefit. A City-owned property may be designated for disposition if:

- The property is not currently used by a City department or supports a municipal function.
- The property is vacant and has no foreseeable use by the City.
- The property is a non-performing or under-performing asset and greater value can be generated by its sale.
- Significant economic development can be generated by selling the property.

The referenced property has been analyzed and determined by the Mayor's staff to be excess to City needs and would best serve the City and its citizens if sold. The Property Information Summary Package contains all pertinent information about the property including its value as determined by a current appraisal and the reason for recommending its sale. The benefits to the City of disposing of this surplus property are as follows:

- Property tax increment will be created by returning the properties to the tax rolls.
- Stimulation of the economy by providing opportunities for private sector investment.
- Generation of revenue for the Capital Outlay Fund.

A Request for Proposal (RFP) for commercial brokerage services was issued through the City's Purchasing Department.

Each proposal received was rated on its technical merit by an evaluation committee. The technical scores were then compared with the pricing proposal to select the brokerage firm to market this property.

This action requests approval of the best value proposal which reflects, in this case, the lowest commission percentage that was received through the bid process described above. CBRE (CB Richard Ellis) was selected as low bidder at a commission of 1% of the sale price.

FISCAL CONSIDERATIONS:

All proceeds from the sale of the properties, net of costs related to their sale, will be deposited in the Capital Outlay Fund as per City Charter Article VII. The total proceeds from these sales are estimated to be \$3,186,000.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders would be the City of San Diego which will benefit by: receipt of the sale proceeds; and additional property taxes from the return of these properties to the tax roles.

Barwick/Anderson

Staff: James F. Barwick - (619) 236-6145  
Todd Bradley - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:19 p.m. – 2:20 p.m.)

MOTION BY HUESO TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-nay, Frye-not present, Madaffer-yea, Hueso-yea.

ITEM-204: Authorization to Sell Certain Excess City-Owned Property Located at 10820 Torrey Pines Road, La Jolla, and Approving Broker Commission. (La Jolla Community Area. District 1.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-516)           NOTED AND FILED

Declaring that certain real property (Property) owned in fee by the City, located at 10820 Torrey Pines Road, La Jolla, CA 92037 [APN 340-011-10], and further described in the "Property Information Summary" is excess City property and may be sold;

Declaring the Property may only be sold for a price equal to or greater than Sixteen Million Dollars (\$16,000,000);

Declaring the Mayor, or his designee, shall have the Property reappraised at least once every twelve months until sold, and the resulting fair market value of the Property shall become the minimum acceptable price, which the Mayor, or his designee, shall report to Council; provided, however, if a re-appraisal results in a fair market value below the minimum price set on the date of this Resolution, the Mayor shall seek Council approval prior to lowering the original minimum price;

Authorizing and directing the Mayor, or his designee, to sell the property through negotiation, public auction, sealed bids, or any combination of such methods, in his discretion;

Authorizing the Mayor, or his designee, in his discretion, to retain, on terms deemed by him to be reasonable and in the best interests of the City, the services of a real estate broker to represent the City and facilitate the sale of the Property, but real estate brokerage participation and brokerage fees shall not exceed 1.24% of the final sale price;

Authorizing the payment of real estate brokerage commissions related to the sale of the Property in compliance with San Diego Municipal Code Section 22.0905, Broker's Fee and Registration;

Authorizing the Mayor, or his designee, to execute and deliver, on behalf of the City, a purchase and sale agreement, grant deed, and all other agreements and documents necessary and on terms and conditions deemed by the Mayor, or his designee, to be reasonable and in the best interests of the City to consummate the sale;

Authorizing and directing the City Comptroller to accept the proceeds of the sale of the Property, net of brokerage commissions and other costs of selling the Property, and deposit them into the Capital Outlay Fund;

Declaring if after attempting to sell the Property at the minimum price specified herein, the Mayor, or his designee, determines that the Property cannot be sold at or above the minimum acceptable price, the Mayor is directed to seek review and additional direction from the Council as to the disposition of the Property.

#### **STAFF SUPPORTING INFORMATION:**

In accordance with Council Policy 700-10 governing the sale and leasing of the City's Real Estate Assets, the Mayor's staff is reviewing the City's property inventory to determine which properties are no longer needed and whose disposition will provide a greater public benefit. A City-owned property may be designated for disposition if:

- The property is not currently used by a City department or supports a municipal function.
- The property is vacant and has no foreseeable use by the City.
- The property is a non-performing or under-performing asset and greater value can be generated by its sale.
- Significant economic development opportunities can be generated by selling the property.

The referenced property has been analyzed and determined by the Mayor's staff to be excess to City needs and would best serve the City and its citizens if sold. The Property Information Summary Package contains all pertinent information about the property including its value as determined by a current appraisal and the reason for recommending its sale. The benefits to the City of disposing of this surplus property are as follows:

- Property tax increment will be created by returning the properties to the tax rolls.
- Stimulation of the economy by providing opportunities for private sector investment.
- Generation of revenue for the Capital Outlay Fund.

A Request for Proposal (RFP) for commercial brokerage services was issued through the City's Purchasing Department.

Each proposal received was rated on its technical merit by an evaluation committee. The technical scores were then compared with the pricing proposal to select the brokerage firm to market this property.

This action requests approval of the best value proposal which reflects, in this case, the lowest commission percentage that was received through the bid process described above. Grubb & Ellis BRE was selected as low bidder at a commission of 1.24% of the sale price.

FISCAL CONSIDERATIONS:

All proceeds from the sale of the properties, net of costs related to their sale, will be deposited in the Capital Outlay Fund as per City Charter Article VII. The total proceeds from these sales are estimated to be \$16,000,000.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders would be the City of San Diego which will benefit by: receipt of the sale proceeds; and additional property taxes from the return of these properties to the tax roles.

Barwick/Anderson

Staff: James F.Barwick - (619) 236-6145  
Todd Bradley - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:41 p.m. – 4:44 p.m.)

Motion by Madaffer to adopt. Second by Hueso. Failed. Peters-yea, Faulconer-yea, Atkins-nay, Young-nay, Maienschein-nay, Frye-not present, Madaffer-yea, Hueso-yea.

ITEM-205: Seventh Amendment to the City of San Diego NonDisposal Facility Element.

(See memorandum from Beryl Bailey Rayford dated 9/26/2008)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-460)            ADOPTED WITH DIRECTION AS RESOLUTION  
R-304361

Adopting the Seventh Amendment to the City of San Diego's NonDisposal Facility Element adopted on July 25, 1994, in Resolution No. R-284332, as set forth in the Seventh Amendment;

Authorizing and directing the Mayor, or his designee, to submit the above Seventh Amendment to the California Integrated Waste Management Board in accordance with the California Public Resources Code;

Declaring that this activity is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15282(p) because it constitutes the amendment of a nondisposal facility element as set forth in Section 41735 of the Public Resources Code.

**STAFF SUPPORTING INFORMATION:**

In 1989, the State Legislature adopted the Integrated Waste Management Act (AB 939) codified as Public Resources Code (PRC) Sections 40000 et seq. PRC Section 41780 requires the reduction of waste disposed of in landfills by 50% by the Year 2000 and thereafter. PRC Section 41730 also requires the preparation of NDFEs describing new or modified solid waste facilities that divert at least five percent of the material received by the facility and require solid waste facility or composting permits. NDFEs are intended to serve as planning documents for infrastructure needed to achieve waste diversion from landfill disposal.

This NDFE amendment was triggered by modification of the Allan Company MRF and Transfer Station. Allan Company has applied for a Full Solid Waste Permit for their expanded operations that now will not only involve processing clean loads of commingled recyclable materials, but will also include processing loads of commingled recyclables containing higher levels of contamination.

This amendment of the NDFE also deletes a previously proposed City Materials Recovery Facility that would have processed mixed construction and demolition debris because a suitable private sector option was developed and permitted, therefore development of this facility was no longer needed. Lastly, this version updates information on a planned City Resource Management Facility, adds planned recycling operations at Sycamore and Otay landfills, and includes four additional facilities that are located outside of the City, but process some waste generated inside the City: EDCO Waste and Recycling Services CDI, Escondido Resource Recovery Transfer, Ramona MRF and Transfer, and SANCO Resource Recovery.

On October 24, 2008, the San Diego Association of Governments (SANDAG), acting as the Local Task Force, recommended approval of these amendments to the City of San Diego NDFE.

FISCAL CONSIDERATIONS:

This is a planning document required by the State. No costs, other than those necessary for the preparation of the document itself, are associated with it.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Council Resolution R-301268/R-2006-617 adopting Sixth Amendment to the Non-Disposal Facility Element Regarding Waste Reduction; and Authorizing its Submittal to the California Integrated Waste Management Board.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The document has been submitted to the following organizations for review and comment:

- Integrated Waste Management Technical Advisory Committee
- Integrated Waste Management Citizens' Advisory Committee
- San Diego Association of Governments, acting as the Local Task Force for the San Diego Region.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

This is a planning document. No impacts are anticipated.

Gonaver/Heap

Staff: Amy Havens - (858) 627-3302  
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:20 p.m. - 2:20 p.m.;  
4:46 p.m. - 4:47 p.m.)

MOTION BY ATKINS TO ADOPT WITH DIRECTION TO STAFF TO ENSURE THE ADDITION OF FOOD-WASTE MATERIAL PROCESSING. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-not present, Madaffer-yea, Hueso-yea.

ITEM-206: Awarding of Design Build Agreement to Bergelectric Corporation for Pump Station 1 and Pump Station 2 Electrical Upgrade and New Electrical Building at Pump Station 2 Project. (Barrio Logan and Reserve Community Areas. Districts 2 and 8.)

(See memorandum from Jose Luis Romo dated 9/14/2008 and Engineering and Capital Projects Department's 9/3/2008, Executive Summary Sheet.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-481) ADOPTED AS RESOLUTION R-304362

Authorizing the City Comptroller to amend the Fiscal Year 2009 Capital Improvement Program to add CIP-41-931.6, Pump Station 1 and Pump Station 2 Electrical Upgrade and New Electrical Building at Pump Station 2 Project (the "Project");

Authorizing the City Comptroller to transfer \$9,535,000 from CIP-41-926.0, Annual Allocation - Metropolitan System Pump Stations to CIP-41-931.6, Pump Station 1 and Pump Station 2 Electrical Upgrade and New Electrical Building at Pump Station 2 Project, both within Sewer Fund 41509;

Authorizing the Mayor, or his designee, to award a design/build contract to Bergelectric Corporation, for the design and construction of the Project, in the amount of \$8,197,000;

Authorizing the expenditure of an amount not to exceed \$9,935,000 from CIP-41-931.6, solely and exclusively, to provide funds for the above contract, contingency, and related costs, provided the City Comptroller first furnishes one or more certificates demonstrating the funds necessary for expenditure are, or will be, on deposit in the City Treasury;

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

Declaring that this activity is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15301(b) as the repair, maintenance, or minor alteration of existing sewer facilities.

#### **NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 9/10/2008, NR&C voted 3 to 0 to move to the full City Council without a recommendation, and direct staff to provide a report addressing how the City is going to deal with Bergelectric Corporation not meeting the City's Equal Opportunity Contracting policy, and also address what recourse the City has if Bergelectric Corporation does not meet this policy after the contract is awarded. (Councilmembers Peters, Faulconer, and Frye voted yea. Councilmember Atkins not present.)

#### **SUPPORTING INFORMATION:**

A Power Reliability Study was conducted in 2003 to evaluate the electrical systems at Pump Station 1 and Pump Station 2, the two largest and the most critical pump stations in the Metropolitan Sewerage System. In this study, deficiencies with regards to compliance with current National Electric Code as well as Environmental Protection Agency (EPA) guidelines for Waste Water Treatment Facilities were evaluated. This project has evolved from the recommendations made to improve the overall power reliability of the entire electrical distribution system for these two pump stations.

Pump Station 1 auxiliary electrical distribution system utilizes the original installed hardware that was built in 1963 which does not provide automatic emergency transfer function from one utility feed to another if one of the utility feed fails. This project will replace the original electrical equipment with new equipment which would have the capability of providing automatic emergency transfer and eliminating single point failures. This capability is required by current EPA guidelines.

Pump Station 2 was also built in 1963. Numerous additions and modifications to the electrical system over the past 45 years have resulted in a very complicated system. Due to the age and lack of availability of the spare parts the original 1963 installed Main Switchgear will be replaced with new equipment which could accommodate a future new service from SDG&E and also accept the addition of on-site emergency generator.

This electrical upgrade will add a higher degree of reliability to the San Diego Metropolitan Wastewater System by ensuring reliable operations of the pump stations during on-site distribution outages or component failures and would go a long way in preventing costly sewer spills.

**SUPPORTING INFORMATION:**

**EQUAL OPPORTUNITY CONTRACTING:**

Funding Agency: City of San Diego

Sub consultant Participation:	\$110,566	Certified Firms (1.35%)
	\$3,813,607	Other Participation (46.52%)

Other: Workforce Report Submitted. Staff will monitor plan and adherence to Nondiscrimination Ordinance.

**FISCAL CONSIDERATIONS:**

The total cost of this project is \$9,935,000. Funding of \$9,935,000 will be available in the Enterprise Fund, CIP-41-931.6, Pump Station 1 and Pump Station 2 Electrical Upgrade and New Building at Pump Station 2, Fund 41509, Sewer, for this purpose. \$9,535,000 will be transferred from CIP-41-926.0, Annual Allocation - Metropolitan System Pump Stations because this project was originally budgeted as a sublet under this Annual Allocation. The total estimated costs of this project are over \$8,000,000, so it is being converted to a stand alone project. No future funding is anticipated for this project.

The project costs of \$ 9,935,000 may be reimbursed approximately 80% by current or future debt financing.

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

Metro TAC Committee (8/20/2008) has voted to approve the project. The subject item was presented to Metro Commission on 9/11/2008 and was approved. The project was presented to Committee on Natural Resources and Culture on 9/10/08. They had some questions about EOC plan and referred the item to the Council for approval (See memo from EOCP Office dated September 14, 2008).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders are the City of San Diego and Bergelectric Corporation.

Boekamp/Jarrell

Aud. Cert. 2900283.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:48 p.m. - 5:03 p.m.)

MOTION BY HUESO TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-not present, Madaffer-yea, Hueso-yea.

ITEM-207: Two actions related to Proposed Water Rate Increases to Offset the Increase in Rates Charged by San Diego County Water Authority (CWA) and to Fund an Indirect Potable Reuse Demonstration Project.

(See Report to the City Council No. 08-167.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2009-619) TRAILED TO TUESDAY, NOVEMBER 18, 2008

Declaring that the proposed water rate increases, as referenced in the water rate tables contained within the Proposition 218 Notice and consistent with the Report to City Council, are approved, as follows:

- a. A water rate increase of 8.50% applied to all customer classes and tiered consumption rates equally in order to offset the increase in the wholesale cost of water purchased by the City from CWA, effective January 1, 2009; and

- b. A water rate increase of \$0.20 per equivalent dwelling unit based upon meter size as related to the increase in the wholesale cost of water purchased by the City from CWA, effective January 1, 2009;
- c. A temporary water rate increase of 3.08% applied to all customer classes and tiered consumption rates equally in order to fund an Indirect Potable Reuse Demonstration Project.

Subitem-B: (R-2009-625) TRAILED TO TUESDAY, NOVEMBER 18, 2008

Declaring that based on the Report to the City Council, none of the revenue from the CWA pass through water rate increases will be used to fund capital projects for the expansion of the water system;

Declaring that the CWA pass-through water rate increases will allow the City to maintain cost/revenue neutrality and to maintain consistency with the City's previously approved 4-year water rate plan;

Declaring that water commodity rates will be temporarily increased for a period of approximately 18 months starting January 1, 2009 in order to raise \$10,711,000 of additional revenue required to pay for the Project;

Declaring based on the foregoing findings, the Council of the City of San Diego finds that the water rate increases approved pursuant to Resolution Number R-\_\_\_\_\_ are exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(8) and CEQA Guidelines Section 15273(a).

**STAFF SUPPORTING INFORMATION:**

On April 24, 2008, the CWA Board of Directors ("CWA Board") adopted the 2008 Long Range Financing Plan update, which included updates to CWA's cost of water, capital improvement program, and other economic assumptions which would affect water purchase rates being charged to their participating agencies. On June 26, 2008, CWA staff made a presentation to the CWA Board disclosing the need for a rate increase based on the additional infrastructure, operations, maintenance, and water purchase costs. At that meeting the CWA Board approved the rate increase recommendation. As a result, on January 1, 2009, CWA will be increasing the rates for water purchases to all their participating agencies, including the City of San Diego.

On January 1, 2009, the City intends to increase the currently effective Water system rates and fees across all customer classes in order to pass through the increased wholesale water purchase costs from CWA. The commodity fee will increase by 8.50% per HCF of water usage for all customer classes and the base fee will increase by \$0.20 per equivalent dwelling unit, based upon meter size. For the typical single family residence customer using 14 HCF per month, the fee increases due to the CWA pass-through costs will add approximately \$3.31 to the monthly water bill. This will be a 6.26% increase in the current water bill.

At the July 28, 2008, meeting of the City Council, staff was directed to develop the rate increase necessary to fund an Indirect Potable Reuse (IPR) Demonstration Project. On September 8, 2008, City staff returned to the City Council with a proposed Proposition 218 Notice which included both the rate increase associated with the CWA pass-through and a rate increase to fund the IPR Demonstration Project. At the September 8, 2008, City Council meeting, the City Council authorized the mailing of the Proposition 218 Noticing which outlined the proposed rate increases related to the CWA pass-through and the IPR Demonstration Project. The Proposition 218 Notices were mailed to property owners of record and City of San Diego water customers on October 1, 2008 and October 2, 2008. As outlined, the IPR demonstration project is estimated to cost \$11,811,000. This amount includes costs for project management; the establishment of an Independent Advisory Panel of scientific and technical experts to advise on the development and implementation of the project; cost of design, construction, and equipment; conceptual design of a conveyance pipeline; and a public outreach and education component. In order to fund the demonstration project, an increase in the commodity rate for all water customers equally would be required.

This increase would be 3.08% if the previously described CWA pass-through increase was also approved. In the event the CWA pass-through is not approved, a 3.26% increase to the commodity charge would need to be applied to all customers equally in order to provide the revenue necessary to support the IPR demonstration project. The proposed increase would generate \$10.7 million in revenue. The remaining \$1.1 million in project costs will be reimbursed through a grant provided by Proposition 50 funding.

FISCAL CONSIDERATIONS:

The increased revenue from the approval of these actions will offset the increase in the cost of purchased water from CWA and fund the IPR Demonstration Project.

PREVIOUS COUNCIL COMMITTEE ACTION:

CWA rate increase: At the July 28, 2008, City Council meeting, the Water Department presented information on the Proposition 218 Notice requirements for the CWA water rate increase. On September 8, 2008, staff presented a combined Proposition 218 notice to include the CWA rates and rates for the IPR/RA Demonstration Project.

*Demonstration Project:* The Water Reuse Study report was presented to the NR&C on July 26, 2006. An evening public workshop, sponsored by NR&C, was held on October 27, 2006. A presentation on the Water Reuse Study and Recycled Water Master Plan was made to the City Council on October 29, 2007. At this meeting, the Council voted to receive the Water Reuse Study Final Draft report and directed staff to develop a plan to implement the Reuse Study's NC-3 strategy. The Mayor vetoed this action, and the City Council's vote on this was reaffirmed on December 3, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Proposition 218 notices were mailed on October 1, 2008 and October 2, 2008.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The Water Department's customer base and property owners were mailed notice that the City Council will hold a public hearing on November 17, 2008, to consider adoption of the proposed increase to the existing water fees and rates.

This notice also informed the customers how to register a protest against these rate increases. If adopted, the adjusted fees and rates would become effective January 1, 2009.

Ruiz/Barrett

Staff: Rod Greek - (619) 980-5928  
Raymond C. Palmucci - Deputy City Attorney

Testimony in opposition by Al Strohlein, Jeff Green, David Kennedy, Parker Platt, Adrian Marine, Dicken Hall, Kris Kaszuba, Jewell Hooper, Scott Rappoport, Benjamin Garfinkel, Cynthia Conger, and Andrew Bailey.

Testimony in favor by Hal Simon, Jim Peugh, Angelica Villagran, Bruce Reznick, Judith Swink, and Faith Picking.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:07 p.m. - 2:21 p.m.)

ITEM-208: 3650 Florida Tentative Map. Project No. 82092. Appeal of the Planning Commission's decision approving a Tentative Map to convert 24 existing residential units into condominiums and to waive the requirement to underground existing overhead utilities. The 0.60 acre site is located at 3650 Florida Street, on the northwest corner of Florida Street and Cypress Avenue. (Greater North Park Community Plan Area. District 3.)

Matter of the appeal by Cory J. Briggs, Briggs Law Corporation, on behalf of Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development, from the decision by the Planning Commission approving an application for a Tentative Map to convert 24 existing residential units into condominiums and to waive the requirement to underground existing overhead utilities. The 0.60 acre site is located at 3650 Florida Street, on the northwest corner of Florida Street and Cypress Avenue, in the MR-1000 Zone of the Mid-City Communities Planned District within the Greater North Park 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 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/haotherproglh.shtml>.

This project was determined to be categorically exempt from the California Environmental Quality Act on September 27, 2005, and the opportunity to appeal that determination ended October 18, 2005.

(TM No. 257318/Waiver of Requirement to Underground Existing Overhead Utilities.)

**STAFF'S RECOMMENDATION:**

Take the following action(s):

(R-2009- ) DENIED APPEAL; ADOPTED AS RESOLUTION  
R-304363

Granting or denying the appeal and upholding or overturning the decision of the Planning Commission approving Tentative Map No. 257318; and approving the waiver to the requirement to underground existing overhead utilities.

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

**OTHER RECOMMENDATIONS:**

Planning Commission on August 7, 2008, voted 4-1-2 to approve.

Ayes: Otsuji, Golba, Naslund, Ontai

Nays: Griswold

Not present: Schultz, Smiley

The Greater North Park Community Planning Committee has recommended denial of this project.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Appeal of the Planning Commission's decision to approve Tentative Map No. 257318 and waive the requirement to underground existing overhead utilities to convert 24 existing residential units to condominiums at 3650 Florida Street within the Greater North Park Community Plan Area.

STAFF RECOMMENDATION:

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

EXECUTIVE SUMMARY:

Tentative Map No. 257318, including the request to waive the requirement to underground existing overhead utilities, to convert 24 existing residential units to condominiums was approved by the Planning Commission and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 1). This is a project appeal and not an environmental appeal; therefore, the environmental issues raised are not relevant to this appeal.

The project was determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision had expired October 18, 2005.

Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code sections which are not CEQA-related and may be addressed through this project appeal. These 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 the project does not comply with the current requirements for new construction, the project is allowed to maintain their current configuration because no additional units or expansion are proposed and it is considered previously conforming for density and development standards.

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

**SDMC Sections 142.1304 and 142.1305:** These sections describe the requirements for approving a variance or waiver from the City’s inclusionary housing requirements.

The project would comply with the City’s requirements either by paying an in-lieu fee or by providing onsite affordable housing. This project is not requesting a variance or waiver from the inclusionary housing requirements; therefore, these code sections are not relevant to this approved condominium conversion project.

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

**FISCAL CONSIDERATIONS:**

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

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

On August 7, 2008, Planning Commission voted on consent to approve Tentative Map No. 257318 and approve waiver to the requirement to underground existing overhead utilities, passed by a vote of 4-1-2 with Commissioner Griswold voting nay and Commissioner’s Schultz & Smiley not present.

On January 17, 2006, the Greater North Park Planning Committee voted 11-0-1 to recommend denial of the project. Denial was based on insufficient parking and no renderings presented to the committee.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Owners: Matthew Browar and Nancy Browar; Applicant: D. Scott Peters, Sterling Land Services, Inc.; Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Anderson/Broughton

LEGAL DESCRIPTION:

The project site is located at 3650 Florida Street, San Diego, Lots 41-46 of Virginia Square, Map No. 1597, County of San Diego, filed September 18, 1913; and also all that portion of the north 10 feet of Cypress Avenue lying south of and adjoining lots 41 to 46 inclusive as vacated and closed to public use on July 22, 1914 by Resolution No. 17809 of the City Council of the City of San Diego, County of San Diego.

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

Staff: Cherlyn Cac – (619) 446-5226  
Karen Heumann – Deputy City Attorney

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

Testimony in opposition by Jarvis Ross.

Testimony in favor by Matt Peterson.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:07 p.m. -5:21 p.m.)

MOTION BY ATKINS TO DENY THE APPEAL AND UPHOLD THE PLANNING COMMISSION'S DECISION TO APPROVE THE TENTATIVE MAP INCLUDING THE REQUEST TO WAIVE THE REQUIREMENT TO UNDERGROUND EXISTING OVERHEAD UTILITIES. Second by Madaffer. Passed by the following vote: Peters-yea, Falconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-not present, Madaffer-yea, Hueso-yea.

ITEM-209: Plum Street Right-of-Way Vacation, Project No. 6360. An application for a Public Right of Way Vacation to vacate a portion of an unimproved paper street known as Plum Street. (Peninsula Community Plan Area. District 2.)

Matter of approving, conditionally approving, modifying, or denying an application for a Public Right of Way Vacation to vacate a portion of an unimproved paper street known as Plum Street. The Planning Commission of the City of San Diego previously recommended that the City Council approve an earlier project that included a full-width vacation and a Planned Development Permit for a deviation of the lot frontage requirements of the RS-1-7 Zone (allowing the two lots fronting the area to be vacated to have less frontage on a dedicated street than the 50-foot minimum) and recommended a Building Restriction Area within a portion of the proposed area to be vacated.

Should the City Council decide to approve a ½ width Vacation of the Right-of-Way adjacent to 1202 Plum Street, the Planned Development Permit would no longer be required because no deviation would be needed. The Building Restricted Area would still be required with the ½ width Vacation. All required easements for sewer, storm drainage, water and general utilities would be reserved to the City with the ½ width vacation. The property is located adjacent to 1202 Plum Street, south of Carlton Street in the RS-1-7 Zone within the Peninsula Community Plan Area, Coastal Height Limit, and Council District 2.

(Report to Planning Commission No. PC-05-227.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-578) ADOPTED AS AMENDED AS RESOLUTION R-304364

Adoption of a Resolution approving the Public Right-of-Way Vacation No. 39220, vacating a portion of Plum Street adjacent to 1202 Plum Street, Lot 1, Block 21, Subdivision Map 305;

That the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the Office of the County Recorder.

**OTHER RECOMMENDATIONS:**

Planning Commission on January 27, 2005, voted 4-2 to approve.

Ayes: Steele, Ontai, Otsuji, Garcia

Nays: Schultz, Chase

The Peninsula Community Planning Board has recommended denial of this project.

**STAFF SUPPORTING INFORMATION:****REQUESTED ACTION:**

This action is a request to vacate a partially improved portion of the Plum Street Public Right-of-Way.

**STAFF RECOMMENDATION:**

APPROVE Public Right-of-Way Vacation No. 39220.

**EXECUTIVE SUMMARY:**

The project proposes to vacate an unimproved segment of the Plum Street public right-of-way adjacent to 1202 Plum Street within the Peninsula Community Planning area (Attachment 1). The Plum Street right-of-way was established as part of the original subdivision pursuant to Map No. 305 and Map No. 165 recorded in the County of San Diego in 1914. Adjoining segments of Plum Street have been previously vacated by City Council resolution in 1926 and 1965. These actions have resulted in a remnant portion of Plum Street providing lot frontage for four properties and a right-of-way that terminates in a non-standard cul de sac.

In 2005, a proposal to vacate the full-width of the right-of-way was heard by the Planning Commission (Attachment 5). Since that time, the project has been revised to propose only a half-width vacation. The segment of Plum Street between Byron Street and Carleton Street is a partially improved public right-of-way. Approximately 35 feet, or half of the right-of-way width, has been improved to provide access to three of the four homes along this section of the street. The portion of the right-of-way proposed to be vacated has never been improved with the exception of the encroachment of a private drive way and ornamental landscaping (Attachment 2). A six-foot wide general utility and access easement will be reserved as a part of the vacation (Attachment 3).

The area to be vacated is within the single-family RS-1-7 Zone which is intended for development of one dwelling unit per legal lot.

The surrounding neighborhood is developed exclusively with single-family homes and the vacation would not result in any additional dwelling units. Staff has reviewed the requested right-of-way vacation and determined that the applicable findings can be affirmed to approve the vacation request.

Regulatory Framework

The Land Development Code establishes a process for approving applications to vacate public rights-of-way and includes the applicable findings that a decision maker must make to approve the requested vacation. The findings generally establish that there is no present or prospective use for the right-of-way, either for the use for which it was intended, or a public use of a similar nature; that the public will benefit from the vacation by the improved use of the land; that the vacation will not adversely affect the applicable land use plan; and that the public facility for which the right-of-way was originally acquired will not be detrimentally affected by the vacation. Staff has concluded that the purpose and intent for which the public right-of-way was originally dedicated has not been met. The area to be vacated was never fully improved or utilized as a street or for any other public use including pedestrian access. The proposed vacation would not adversely affect any existing access to surrounding properties. Nor would the vacated right-of-way provide a logical connection to adjacent streets or facilitate vehicle circulation as it terminates in a non-standard cul de sac. The proposed vacation meets all of the criteria that would allow a decision maker to affirm the required findings. The portion of the street proposed to be vacated does not provide access to any of the abutting properties and due to the adjacent right-of-way vacations approved by previous city councils, it is unlikely that the street would be improved in the future. The city would benefit by relinquishing the maintenance and liability associated with the easement and the abutting property owners would benefit from the closure by regaining the vacated portion of the right-of-way for which they own the underlying fee title. The proposed vacation would not adversely affect the Peninsula Community Plan and the proposed vacation would not affect on-street parking or existing access to adjacent properties.

FISCAL CONSIDERATIONS:

There are no fiscal considerations with this project. The costs of processing this application are paid for by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On January 27, 2005, the Planning Commission voted 4-2 to recommend the City Council approve a full-width vacation, with the condition that a building restricted easement be applied to the area of vacated street. The property owner has agreed to the non-building easement. The Peninsula Community Planning Board considered the project at their meeting on August 21, 2003, and voted 11-1-1 to recommend denial of the project citing concerns about parking and a lack of public benefit. Both the Planning Commission recommendation and the Peninsula Community Planning Board recommendations were based on a previous proposal advocating a 70 foot full-width vacation. The project has been revised to request a 35 foot half-width vacation.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

William and Peggy Tilden, property owners.

NOTE: This activity was determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301 – existing facilities.

Broughton/Anderson/PH

Staff: Patrick Hooper – (619) 557-7992  
Keith Bauerle – Deputy City Attorney

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

Testimony in opposition by Jarvis Ross, Cynthia Conger, Patricia Deck, Alyssa Brown, and Ross Campbell.

Testimony in favor by Tom Tourtellott, Matt Peterson, John O'Neil, Theodore Ward, and Paul Wehsener.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:26 p.m. - 5:50 p.m.)

MOTION BY FAULCONER TO ADOPT STAFF'S RECOMMENDATION AS AMENDED BY DELETING THE LANGUAGE AGREED TO BY THE PARTIES. ON CLERK'S PAGE 000499, SECOND PARAGRAPH, DELETE, "TO FACILITATE DEVELOPMENT OF THEIR PROPERTY, AND." ON CLERK'S PAGE 000502, PARAGRAPH 3, DELETE, "UPON ACQUISITION OF ENCROACHMENT PERMIT FROM THE CITY ENGINEER PURSUANT TO THE MUNICIPAL CODE OF THE CITY, THE OWNERS OF THE UNDERLYING FEE MAY UTILIZE THE ABOVE DESCRIBED PARCEL OF LAND FOR STRUCTURES, THE PLANTING OR GROWING OF TREES, OR THE INSTALLATION OF PRIVATELY OWNED PIPELINES." Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-not present, Madaffer-yea, Hueso-yea.

ITEM-210: Palladium at Aero, Project No. 148904. A Rezone of the property, General Plan and Kearny Mesa Community Plan Amendment, Public Right-Of-Way Vacation, Vesting Tentative Map and Site Development Permit to subdivide and develop 412 multiple family dwelling units and 5,190 square feet of commercial development on a 7.52 acre site located at 8655 Aero Drive. (Kearny Mesa Community Plan Area. District 6.)

Matter of approving, conditionally approving, modifying or denying a Rezone of the property from the IP-2-1 Zone to the RM-3-9 Zone, General Plan and Kearny Mesa Community Plan Amendment, Public Right-Of-Way Vacation, Vesting Tentative Map and Site Development Permit to subdivide and develop 412 multiple family dwelling units and 5,190 square feet of commercial development on a 7.52 acre site located at 8655 Aero Drive within the Kearny Mesa Community Plan.

**\*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.**

**STAFF'S RECOMMENDATION:**

Take the following actions in Subitems A, C, D, and E, and introduce the ordinance in subitem B:

Subitem-A: (R-2009- ) TRAILED TO TUESDAY, NOVEMBER 18, 2008

Certifying that the information contained in Mitigated Negative Declaration No. 148904 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 Administration Code 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 the City Council;

Declaring that the City Council of the City of San Diego finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Mitigated Negative Declaration, a copy of which is attached hereto and incorporated by reference, is hereby approved;

Declaring that pursuant to California Public Resources Code, Section 21081.6, the City Council hereby 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 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 this project;

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

Subitem-B: (R-2009- )      TRAILED TO TUESDAY, NOVEMBER 18, 2008

Changing 9.32 acres located at 8655 Aero Drive, within the Kearny Mesa Community Plan Area, in the City of San Diego, California, from the IP-2-1 Zone into the RM-3-9 Zone, as defined by San Diego Municipal Code Section 131.0406; and repealing Ordinance No. O-18478 (New Series), adopted April 7, 1998, of the Ordinances of the City of San Diego insofar as the same conflict herewith;

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

Subitem-C: (R-2009- )      TRAILED TO TUESDAY, NOVEMBER 18, 2008

Declaring that the City Council of the City of San Diego adopts the amendments to the Kearny Mesa Community Plan, a copy of which is on file in the Office of the City Clerk;

Declaring that the City Council adopts and amends the General Plan for the City of San Diego to incorporate the above amended plan;

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

Declaring that the City Council of the City of San Diego adopts the findings with respect to Vesting Tentative Map (VTM) No. 524641, including the waiver of the requirement to underground existing overhead utilities and Public Right-of-Way Vacation No. 524640;

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

Based on the Findings hereinbefore adopted by the Council of the City of San Diego, VTM No. 524641 and Public Right-of-Way Vacation No. 524640, and granting to Westcore Sandrock, LLC, Subdivider;

Declaring that pursuant to California Government Code Section 66434(g), portions of Aero Drive and Sanrock Road, located within the project boundaries as shown in VTM No. 624641, shall be vacated, contingent upon the recordation of the approved final map for the project and that said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference;

Sustaining the recommendation of the Planning Commission, for VTM No. 524641 and Public Right-of-Way Vacation No 524640 and granting to Westcord Sandrock, LLC, subject to the conditions attached hereto and made a part hereof;

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

Subitem-E: (R-2009- )      TRAILED TO TUESDAY, NOVEMBER 18, 2008

Declaring that the City Council of the City of San Diego adopts the findings with respect to Site Development Permit (SDP) No. 524637

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

Sustaining the recommendation of the Planning Commission, for SDP No. 524637 and granting to Westcore Sandrock, LLC, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof;

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

**OTHER RECOMMENDATIONS:**

Planning Commission on October 23, 2008, voted 4-2-1 to approve this project with specific direction to improve the Streetscape Design Guidelines for Aero Drive.

Ayes:            Schultz, Ontai, Otsuji, Nasland  
Nays:            Golba, Griswald  
Not Present:    Smiley

The Kearny Mesa Planning Group voted, on September 17, 2008, 7-1-1 to approve the proposed actions.

On September 18, 2008, the Serra Mesa Community Planning Group voted 10-1-0 to deny the project.

#### STAFF SUPPORTING INFORMATION:

##### REQUESTED ACTION:

A Rezone, General Plan and Kearny Mesa Community Plan Amendment, Public Right-Of-Way Vacation, Vesting Tentative Map and Site Development Permit to develop 412 apartment units and approximately 5,190 square feet of retail development on a 7.52 acre site located at 8655 Aero Drive within the Kearny Mesa Community Plan.

##### STAFF RECOMMENDATION:

1. **Certify** Mitigated Negative Declaration 148904, and **adopt** the Mitigation Monitoring and Reporting Program; and
2. **Approve** Rezone No. 524639, General Plan and Kearny Mesa Community Plan Amendment No. 524638, Public Right-Of-Way Vacation No. 524640, Vesting Tentative Map No. 524641, and Site Development Permit No. 524637.

##### EXECUTIVE SUMMARY:

The General Plan and Kearny Mesa Community Plan Amendment would designate the site for multiple family unit residential use. The site, located immediately south of Montgomery Field along Aero Drive, is adjacent to commercial, industrial and residential uses.

The 7.52 acre site is at 8655 Aero Drive within the existing IP-2-1 Zone (proposed RM-3-9 Zone) of the Kearny Mesa Community Plan.

The proposed Palladium at Aero project would demolish the existing structures and develop a 412 apartment unit project with 5,190 square feet of retail development on a 7.52 acre site located at 8655 Aero Drive within the Kearny Mesa Community Plan. Forty-two units of the proposed 412 apartment units, or ten percent of the total dwelling units provided, would be set aside as affordable to persons earning no more than sixty-five percent of the area median income.

The project would add to the availability of affordable work-force housing in the community and in the City at large. The project proposes two deviations: 1) to allow installation of photovoltaic panels on structures on the roof deck of the parking garage to generate electricity and to shade the parking structure roof deck in lieu of planting trees in containers on the deck, and 2) to deviate from the street side yard setback along Aero Drive to allow a setback of thirty feet rather than forty-six feet six inches.

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:

The Kearny Mesa Community Planning Group voted, on September 17, 2008, 7:1:1 to approve the proposed actions. On September 18, 2008, the Serra Mesa Planning Group voted 10:1:0 to recommend denial. On October 16, 2008, the Planning Commission heard public testimony and discussed the project. The Commission continued the item to October 23, 2008, to allow the applicant time to revise the project design. On October 22, 2008, the Serra Mesa Planning Group voted a second time 5:2:0 to recommend denial.

Per the Commissioner's October 16<sup>th</sup> suggestions, the applicant revised the design which reduced the height of the building to eliminate the request for a height deviation, revised the Site Plan to open some of the courtyards to the street by creating visual and physical connections to the sidewalk, relocated the pool from the west to the east side of the site, and added photovoltaic panels to structures on the roof deck of the parking structure. Along the west elevation the building was revised to increase architectural interest by adding balconies and patios, created two architectural styles, and opened an interior courtyard to the west. Along the east elevation the building was lowered from four to three stories and lowered to two stories at the southeast corner, created two architectural styles by the use of detailing, and opened an interior courtyard to the sidewalk along Sandrock Road. Along the north elevation the building was altered to visually open an interior courtyard to the Aero Drive sidewalk. The south elevation was not altered.

The applicant also proposed evergreen and deciduous tree species for the plant palette along the southerly property line with an undulating tree placement to avoid a linear line of trees. On October 23, 2008, the Planning Commission again heard the item and took public testimony in favor and in opposition. At the conclusion of public testimony and discussion by the Commissioners, the Commission made a motion to move Staff's recommendation and to direct staff and the applicant to continue to improve the content of the Urban Design, Streetscape and

Streetyard Guidelines for Aero Drive. The improvements would address: entry points into Kearny Mesa and Serra Mesa communities; irrigation and plant palette coordination to assure compatibility; no monoculture tree species along Aero Drive to assure viability, health, interest, walkability and pedestrian experience. And lastly, medians in the right-of-way less than seven feet wide should explore materials more agreeable to the environment other than concrete and medians fourteen feet in width should integrate the design of the median and parkway planting to slow traffic to create a safer environment. The motion passed by a vote of 4:2:0.

KEY STAKEHOLDERS: Westcore Sandrock, LLC

Broughton/Anderson/JF

LEGAL DESCRIPTION:

The site is located at 8655 Aero Drive within the Kearny Mesa Community Plan Area (Lots 3, 4 and 5 of Research Park Subdivision Addition, Map No. 6386, filed June 12, 1969). The site is not included on any Government Code Listing of hazardous waste sites.

NOTE: **October 2008 Update:**

Several corrections/additions have been made to the environmental document that do not effect the analysis or conclusions. The changes are shown in standard strikeout/underline format.

Staff: John Fisher – (619) 446-5231  
Nina Fain – Deputy City Attorney

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

Testimony in opposition by James Feinberg, Jarvis Ross, Linda Watts, Joseph McDonald, Dicken Hall, and Cindy Moore.

Testimony in favor by Marcela Escobar-Eck, Gary Cast, John Turpit, Jerry Livingston, Kristen Byrne, Chris Garrett, Jeffrey Sallen, and Russ Vallone.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:09 p.m. - 2:10 p.m.;  
6:03 p.m. - 6:57 p.m.)

ITEM-S400: San Diego Facilities and Equipment Leasing Corporation 2008 Bylaws..

(Continued from the meeting of 11/10/2008, Item 207, at the request of Councilmember Frye, due to lack of time.)

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-153)                      ADOPTED AS RESOLUTION R-304365

Declaring that the Original Bylaws are ineffective and of no further force and effect, and approving the 2008 Bylaws. The 2008 Bylaws shall, immediately upon the effective date of this Resolution, govern the operations of the Corporation for all purposes and the Corporation shall, at all meetings and in connection with all corporate actions taken after such effective date, operate pursuant to the provisions of the 2008 Bylaws;

Declaring that a copy of the 2008 Bylaws shall be filed by the City Clerk of the City with the California Secretary of State, together with a certified copy of this Resolution.

**SUPPORTING INFORMATION:**

The San Diego Facilities and Equipment Leasing Corporation, a California nonprofit charitable corporation ("Corporation"), was formed in 1998 to assist in the financing, acquisition, construction and improvement of certain capital facilities improvements for the City of San Diego ("City"). The City, as the sole Member of the Corporation, retained the power to amend the Corporation's Bylaws through the City Council.

Those Bylaws originally contained cumbersome procedures, nonfunctional committees and audit requirements inconsistent with current law and practice. The original methodology for filling vacancies on the Board of the Corporation, for example, was described in two conflicting ways within the Bylaws; in one place, the Directors served ex officio during the term of their City position (City Attorney, City Auditor and City Manager), while in another, two remaining Directors were authorized to pick a third. The City Attorney's Office retained the Law Firm of Fulbright & Jaworski L.L.P. to represent the Corporation and the attached revised new 2008 Bylaws are their recommendation to bring the Corporation into compliance with the Corporations Code and City practice and to clarify the application of the Brown Act to the Corporation's meetings.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

OTHER RECOMMENDATIONS:

None. The proposed changes to the Corporation's Bylaws are not subject to the review or approval of the Corporation's Board.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): None.

Epley

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:03 p.m. - 5:05 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-not present, Madaffer-yea, Hueso-yea.

ITEM-250: **Notice of Pending Final Map Approval – 559-565 61<sup>st</sup> Street.**

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 "559-565 61<sup>st</sup> Street." (T.M. No. 293842/PTS No. 157339), located on the east side of 61<sup>st</sup> Street between Brooklyn Avenue and Akins Avenue in the Encanto Neighborhoods, Southeastern Community Plan Area in Council District 4, 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: Notice of Pending Final Map Approval – Pacific Highlands Ranch Unit 21.**

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 "Pacific Highlands Ranch Unit 21" (T.M. No. 4653/PTS No. 103481), located north of Carmel Valley Road east of Lopelia Meadows Place in the Pacific Highlands Ranch Community Plan Area in Council District 1, 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-252: Notice of Pending Final Map Approval – 901 Sapphire Street.**

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 "901 Sapphire Street" (T.M. No. 266233/PTS No. 163602), located on the south side of Sapphire Street between Mission Boulevard and Bayard Street in the Pacific Beach 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-253: **Notice of Pending Final Map Approval – 835 Thomas Avenue.**

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 “835 Thomas Avenue” (T.M. No. 266188/PTS No. 165359), located on the south side of Thomas Avenue between Mission Boulevard and Bayard Street in the Pacific Beach 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.

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Minutes of the Council of the City of San Diego  
for the Regular Meeting of Monday, November 17, 2008

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REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 7:08 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 7:08 p.m. - 7:08 p.m.)

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Elizabeth S. Maland, City Clerk  
City of San Diego

**UNAPPROVED**

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, NOVEMBER 10, 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 Pro Tem Madaffer at 2:05 p.m. Council President Peters recessed the meeting at 3:32 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:40 p.m. with Council Member Young and Council Member Madaffer not present. Council President Peters recessed the meeting at 5:40 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 5:43 p.m. with Council Member Maienschein not present. Council President Peters recessed the meeting at 6:37 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 6:46 p.m. with Council Member Young and Council Member Maienschein not present. The meeting was adjourned by Council President Peters at 9:05 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 (sr)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-not 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 Kathleen Owens of First Unitarian Universalist Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Frye.

FILE LOCATION: MINUTES

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Toni Stone commented on false confessions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:10 p.m. - 2:12 p.m.)

PUBLIC COMMENT-2:

Mignon Scherer commented on the proposed closing of community centers and public libraries.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:12 p.m. - 2:14 p.m.)

PUBLIC COMMENT-3:

Jarvis Ross commented on the election results.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:14 p.m. - 2:17 p.m.)

PUBLIC COMMENT-4:

Mel Shapiro commented on the budget.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:19 p.m.)

PUBLIC COMMENT-5:

Jim Schneider and Nevin Kleege commented on San Diego Renewal Community and HR 2578.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:19 p.m. - 2:21 p.m.)

PUBLIC COMMENT-6:

Joy Sunyata commented on budgets.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:24 p.m..)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

**Referred to the Mayor's office:** Council Member Atkins asked when the winter shelter will open and repeated her request for information related to the HUD investigation.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:09 p.m. - 2:10 p.m.)

ITEM-150: Agreement with Raftelis Financial Consultant, Inc., Related to Development of Rate Structuring Models.

(See Water Department's and Metropolitan Wastewater Department's 8/28/2008, Executive Summary Sheet.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-448)            ADOPTED AS RESOLUTION R-304338

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with Consultant not to exceed \$500,000, for the purpose of securing financial consultant services related to the development of water and wastewater rate structuring models;

Authorizing the expenditure of an amount not to exceed \$500,000, consisting of an amount not to exceed \$300,000 from Water Fund 41500, Organization 140, and an amount not to exceed \$200,000 from Sewer Fund 41509, Organization 495, solely and exclusively, for the purpose of providing funds for the abovementioned Agreement, its amendments and related costs, provided that the City Auditor and 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 Section 15060(c)(2).

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 9/10/2008, NR&C voted 3 to 0 to forward to the full City Council without a recommendation. (Councilmembers Peters, Faulconer, and Frye voted yea. Councilmember Atkins not present.)

**SUPPORTING INFORMATION:**

The Water Department provides retail water service to approximately 1.3 million customers within the City and wholesale water service to several customers such as the Cal American Water Company. The Wastewater Department provides wastewater service to approximately 2.3 million customers within the City and 15 other cities and districts. Currently, each department is identified as a separate entity and each department has a separate, complex rate model in place. However, the City is exploring whether combining common services through re-organization would create opportunities for savings and enhance the services to both external and internal customers. Despite the possible re-organization of these departments, the inputs for calculating equitable rates vary too greatly to develop one model to determine rates for both Water and Wastewater customers.

The development of new rate structuring models would allow for similar system configurations to be established for both models building consistency between the departments and enhance the internal ability of each department to analyze adjustments to critical assumptions such as changes in projected revenue or expenditures, correlating litigation decisions, or anticipated supply shortages in providing pertinent information for guiding fiscal and budgetary decisions. The information provided from these newly developed models will assist in developing a series of proactive actions and potentially minimize the impacts of negative issues such as reduced water supplies while ensuring an equitable allocation of supplies and costs. The models will be sophisticated enough to perform the required complex calculations and still allow for future updates by City staff without the need for extensive training. RFC is currently contracted with the City to review and update the Recycled Water rate model.

It is proposed that RFC, an independent financial consultant, be selected to provide these services. In conjunction with the Purchasing and Contracting Department, it was decided to provide a sole source contract with RFC due to the high priority of developing these types of adjustable models in order to address unfolding environmental and legal issues, and the potential for a significant reduction in the amount of time and cost in order to complete these models. In October 2006 RFC was commissioned by both the Water and Wastewater Departments to conduct a comprehensive cost of service and rate design studies. These studies included the review and interpretation of each Departments' separate rate models, review of each system's revenue requirements, customer classifications, then current cost allocation methods, projected capital improvement programs and their funding sources, and each system's operation and maintenance costs. During the process of completing these studies, RFC gained understanding of the City's current information and billing systems, City policies and procedures, and unique challenges facing each department.

FISCAL CONSIDERATIONS:

The total cost of the contract with RFC will be for an amount not to exceed \$500,000; an amount of not to exceed \$370,000 for professional services related to the identified scope of work and an amount of \$130,000 for additional services including related out-of-pocket expenses (i.e. travel, printing, conference calls, etc.).

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The subject item was presented to the Natural Resource and Culture Committee on September 10, 2008. The Natural Resource and Culture Committee adopted a motion to forward to the full City Council without a recommendation.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

There has been no community participation or public outreach regarding this project.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

The key stakeholders are the City of San Diego, Water Department customers, and Wastewater Department customers.

Ferrier/Ruiz/Barrett

Aud. Cert. 2900261.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:09 p.m. – 5:26 p.m.)

MOTION BY FRYE TO ADOPT WITH DIRECTION THAT A STATUS REPORT BE PROVIDED TO THE NATURAL RESOURCES AND CULTURE COMMITTEE NO LATER THAN MAY OF 2009 . Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-151: City's Fiscal Year 2007 Comprehensive Annual Financial Report (CAFR) and Yellow Book Report.

(See Macias Gini's 11/3/2008, PowerPoint; City Treasurer's 10/30/2008, memorandum; Hawkins Delafield's 10/31/2008, memorandum; SDCER's Commentary on Current Investment Climate, dated 10/13/2008; SDCER's 10/30/2008, letter; Independent Auditor's Report, FY Ended 6/30/2007; Chief Financial Officer's 10/27/2008, Power Point; CAFR Review Questions (Rev. 6/23/2008); and City Attorney's 11/3/2008, letter.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-565 Cor. Copy)      ADOPTED AS RESOLUTION R-304339

Receiving and filing the City's Fiscal Year 2007 Comprehensive Annual Financial Report (CAFR).

**AUDIT COMMITTEE'S RECOMMENDATION:**

On 11/3/2008, Audit voted 3 to 0 to forward to the full City Council with the recommendation to receive and file. (Councilmembers Faulconer, Atkins, and Young voted yea.)

**SUPPORTING INFORMATION:**

The City received an Audit Opinion from its Independent Auditor Macias Gini & O'Connell LLP dated October 17, 2008, for the 2007 Comprehensive Annual Financial Report, and will be distributing the Yellow Book report as soon as received by Macias Gini & O'Connell.

**FISCAL CONSIDERATIONS:** None with this action.

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

The Audit Committee is scheduled to consider these documents for the second time on Monday November 3, 2008.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** N/A

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:** N/A

Levin/Lewis

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:44 p.m. – 4:56 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-not present, Maienschein-yea, Frye-nay, Madaffer-not present, Hueso-yea.

ITEM-200: 2009 Bonds – Water System (Refunding and New Money). (Citywide.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the ordinance in Subitem A, which was introduced as amended on 10/27/2008, Item 200, Subitem A. (Council voted 7-1. Councilmember Frye voted nay.) Adopt the Resolution in Subitem B:

Subitem-A: (O-2009-48 Cor. Copy) ADOPTED AS O-19806 (NEW SERIES)

Approving the form of, and authorizing the issuance of the Public Facilities Financing Authority of the City of San Diego Water Revenue Bonds, refunding Series 2009A and Series 2009B (payable solely from installment payments secured by Net System Revenues of the Water Utility Fund of the City of San Diego) and approving an indenture and first supplement thereto, approving the form and authorizing the execution and delivery of an Amended and Restated Master Installment Purchase Agreement and 2009A and 2009B Supplements thereto, and approving 2009A and 2009B Continuing Disclosure Certificates relating to Installment Purchase financings, authorizing the City Attorney to appoint bond counsel and disclosure counsel, and approving certain other agreements and actions in connection therewith.

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

Subitem-B: (R-2009-566)

ADOPTED AS RESOLUTION R-304340

Declaring that a previous version of this Resolution (R-2009-435), was erroneously recorded as "approved" following a discussion of the Preliminary Official Statement submitted to the City Council at its October 27, 2008, meeting; determining that Resolution (R-2009-435) adopted as R-304305, is hereby nullified;

Adoption of a Resolution approving the form of a Preliminary Official Statement relating to an issue of Water Revenue Bonds, Refunding Series 2009A (Payable Solely from Installment Payments Secured by Net System Revenues of the Water Utility Fund of the City of San Diego) and a 2009A Bond Purchase Agreement, and taking and approving certain other actions in connection therewith.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:00 p.m. - 5:07 p.m.)

MOTION BY FAULCONER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE IN SUBITEM A AND ADOPT THE RESOLUTION IN SUBITEM B. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-201: Approval of the 2009 Legislative Calendar and FY 2010 Budget Adoption Calendar.

**COUNCIL PRESIDENT PETERS' RECOMMENDATION:**

Take the following actions:

(R-2009-640) ADOPTED AS RESOLUTION R-304341

Adopting the schedule of meetings for the City Council and Standing Committees of the City Council for the period of January 1, 2009 – December 31, 2009;

Adopting the FY 2010 Budget Adoption Calendar;

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

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

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 9:03 p.m. – 9:03 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-not present, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-202: Amendments to the City's Emergency Water Regulations.

(See Report to the City Council No. 08-162.)

**STAFF'S RECOMMENDATION:**

Take the following actions:

(O-2009-59) INTRODUCED, TO BE ADOPTED TUESDAY,  
DECEMBER 2, 2008

Amending Chapter 6, Article 7 of the San Diego Municipal Code by amending Division 38, Sections 67.3801-67.3811 Emergency Water Regulations;

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

**STAFF SUPPORTING INFORMATION:**

The proposed amendments to the City's Municipal Code, Sections 67.3801-67.3811, Emergency Water Regulations are being recommended in order to improve the City's demand response program in the event of a water supply shortage, and to provide greater consistency with the Model Drought Response Conservation Program Ordinance recently approved by the San Diego County Water Authority.

The Water Department has reviewed the elements encompassed within the Model Ordinance and has considered the impact on customers of the various proposed behavioral restrictions, enforcement mechanisms, and appeal process contained therein. As a result, the water department is proposing various language changes and behavioral restrictions in the use of water should demands exceed available supply. The more significant changes, elaborated in detail in the accompanying staff report, are:

- The establishment of year-round water waste prohibitions;
- The establishment of specific demand reduction targets for each drought response level;
- The ability of the City to establish water use allocations for individual customers and properties;
- A restriction in the issuance of new meters at a drought response Level 3 and 30% demand reduction requirement unless specific criteria are met, or an offset in water demand is provided; and
- The ability of customers to apply for a "hardship variance" from the restrictions imposed in the proposed ordinance, provided certain findings can be established.

FISCAL CONSIDERATIONS:

None with this action. Implementation of drought response levels will require additional Water Department resources in order to achieve a given level of compliance. The extent of this resource requirement is not known at this time but will be identified as part on any mandatory water restriction or water allocations recommended by the Mayor and approved by City Council.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Mayor's Office has held community meetings in each Council District to discuss water supply issues impacting the City of San Diego and to discuss general provision of the proposed new water restrictions. Similar meetings have been held with members of the business community and the largest water consumers. Additional public education will occur upon approval of any changes in the existing Municipal Code.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The implementation of the proposed revisions to the City's Emergency Water Regulations will affect all City of San Diego water customers.

Ruiz/Barrett

Staff: Alex Ruiz - (619) 533-6692

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 5:43 p.m. - 6:34 p.m.)

MOTION BY MADAFFER TO INTRODUCE. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-not present, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-203: San Diego Regional Enterprise Zone Application. (College Area, City Heights, North Park, Logan Heights, Barrio Logan, Sherman Heights, Stockton, Southcrest, Mountain View, Mt. Hope, Shelltown, Lincoln Park, Valencia Park, Chollas View, San Ysidro, Otay Mesa-Nestor, Otay Mesa, and Centre City East Community Areas. Districts 3, 4, 7, and 8.)

(See Reports to the City Council No. 08-161 and 06-112.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-466) ADOPTED AS AMENDED AS RESOLUTION R-304342

Declaring that the areas to be included in the boundary modification meet the following specific circumstances required by HCD:

- 1) An area was previously in an expired Enterprise Zone (EZ) and the benefits of the program are still needed in order to complete revitalization efforts; or
- 2) The census tract/blocks comply with HCD's eligibility criteria; and
- 3) The area does not exceed 5% of the EZ application area; and
- 4) Areas for consideration must be contiguous; and
- 5) The area meets the City's stated EZ strategic plan as submitted in the original application; and
- 6) The boundary modification is approved by resolution by the jurisdictions' governing bodies.

Authorizing the Mayor to submit the application to HCD modifying the boundaries of the SDREZ prior to final designation by HCD in accordance with Exhibits A and B attached to the Report.

**STAFF SUPPORTING INFORMATION:**

The City of San Diego previously received approval for two enterprise zone (EZ) designations, the Metro EZ (1986) and the South Bay EZ (1992). The Metro Enterprise Zone expired on October 14, 2006, and the South Bay Enterprise Zone expired on January 27, 2007. On August 15, 2006, the City Council approved a Resolution (R-301845) authorizing submission of an application to the California Housing and Community Development Department (HCD) for a regional EZ designation, the San Diego Regional Enterprise Zone (SDREZ), for the Cities of San Diego, Chula Vista and National City ("SDREZ Partners"). The process for EZ designation is competitive and based on economic need (distressed communities, lack of private investment, job creation needs, high unemployment, and/or poverty) and must include a realistic and ambitious EZ program marketing and job development strategies and a solid implementation plan. Council certified the Final Environmental Impact Report and approved a Resolution (R-304082, adopted September 10, 2008) authorizing staff to submit documentation to establish a targeted employment area (TEA) to the State Housing and Community Development Department (HCD).

**DISCUSSION:**

Prior to obtaining final designation of a conditional EZ designation, HCD is accepting boundary modification requests pursuant to certain conditions. See concurrently submitted Report to Council for detailed discussion regarding required conditions. The designation date for boundary modification is the same as the conditionally approved EZ. For the SDREZ the designation date is October 15, 2006. Therefore, businesses may take advantage of EZ incentives retroactive to the date of designation. At the City Council hearing on September 8, 2008, Council directed staff to do an analysis of specific areas to determine qualification for EZ status per the aforementioned conditions and requested that the City submit a boundary modification request if additional areas qualified for inclusion in the boundary modification. Per City Council direction as well as input from various stakeholders, staff has identified several areas complying with HCD's boundary modification requirements. These areas are identified in Attachment A. Resolutions from the SDREZ's municipal partners must also be obtained and included in the request to HCD for the boundary modification. Areas not within the EZ may still benefit from the designation in the following manner:

- 1) Employees, regardless of residency, employed by an EZ company may qualify for the EZ Personal Income Tax Credit depending on household income.
- 2) EZ companies can apply for an EZ Hiring Credit Voucher for each employee residing in the Targeted Employment Areas (TEA). On September 8, 2008, Council authorized staff (R-304082) to submit documentation to establish a new TEA encompassing census tracts with a population of at least 51% earning less than the County's median wage.

- 3) Properties zoned commercial or industrial meeting the City's stated EZ strategic plan as submitted in the original application can be included through an EZ expansion at a later date and after receiving final designation. See concurrently submitted Report to Council for detailed discussion regarding required conditions.

Modifying the SDREZ boundaries to include areas previously in the expired EZ gives San Diego a medium to continue to be competitive with other major metropolitan areas in the state by offering business incentives to assist existing employers and attract new ones to the region. The next step in this process is for the municipal "SDREZ Partners" to approve by resolution the boundary modification as shown in Attachment A and submit the request and documentation to HCD for approval.

FISCAL CONSIDERATIONS:

There will be ongoing staff time required to administer the SDREZ during the designation period. However, this action has no additional administrative or fiscal impact to the existing SDREZ program.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On August 8, 2006, City Council authorized the Mayor, or his designee, to execute and submit the required documentation to HCD for review and approval of a new EZ designation via Resolution R-301845. City Council certified the Environmental Impact Report (EIR), No. 134663, and authorized the Mayor to submit documents to establish a Targeted Employment Area (TEA) on September 8, 2008, via Resolution R-304082, adopted September 10, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

See Report to City Council No. 06-112.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

There are no key stakeholders. Projected impacts for the SDREZ are new private investments and the creation and retention of jobs in the San Diego region.

Moreno/Anderson

Staff: Lydia Moreno - (619) 236-6320

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:36 p.m. – 5:32 p.m.)

MOTION BY FAULCONER TO ADOPT AS AMENDED BY INCLUDING THE NORTHEAST CORNER OF UNION STREET AND WEST CEDAR IN ATTACHMENT A. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-204: Two actions related to North University City Public Facilities Financing Plan and Facilities Benefit Assessment Fiscal Year 2009. Approving the document entitled "North University City Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2009, November 2008." And a Resolution of Intention to designate an area of benefit in North University City and setting the time and place for holding a public hearing thereon. (North University City Community Plan Area. District 1.)

(See Report to the City Council No. 08-160; North University City Public Facilities Financing Plan and Facilities Benefit Assessment DRAFT Fiscal Year 2009, November 2008.)

**NOTE:** Public Hearing will be held on December 5, 2008.

**STAFF'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2009-536) ADOPTED AS RESOLUTON R-304343

Resolution of the Council of the City of San Diego approving the North University City Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2009.

Subitem-B: (R-2009-537) ADOPTED AS RESOLUTION R-304344

Resolution of the Council of the City of San Diego declaring its intention to designate an area of benefit in University City and setting the time and place for holding a public hearing thereon.

**OTHER RECOMMENDATIONS:**

The North University City Planning Group (UCPG) on March 11, 2008, voted (12-1-1) in support of the April 2008 version of the financing plan with qualifications.

**SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

1) Approve the North University City Public Facilities Financing Plan – Fiscal Year 2009; 2) Adopt a Resolution of Intention to designate an area of benefit for a Facilities Benefit Assessment (FBA) in North University City; 3) Adopt a Resolution of Designation for the FBA in North University City; 4) Approve the setting of Development Impact Fees (DIF) consistent with the FBA in North University City for those developments which have never been assessed or otherwise agreed to pay an FBA; and 5) Authorize the City Auditor and Comptroller to modify individual Capital Improvement Project Program budgets to reflect this plan.

**STAFF RECOMMENDATION:** Approve the North University City Public Facilities Financing Plan - Fiscal Year 2009; rescind the existing Facilities Benefit Assessments and Development Impact Fees (Attachment #2) and establish new Facilities Benefit Assessment and Development Impact Fees for the North University Community.

**EXECUTIVE SUMMARY:** The proposed FY 2009 PFFP (Attachment #1) details the public facilities that will be needed through the ultimate development of North University City at full community development, currently estimated to be the year 2015. This plan includes the Westfield University Town Centre (UTC) Development project approved by Council on July 29, 2009.

The proposed financing plan includes the addition of approximately \$28 million in FBA funding as a result of construction and material cost increases, project delays, and the addition of new projects. New projects include an expanded transit center at UTC, a joint use park at University City High School, and two new fire stations, only one of which is funded with FBA at this time. City Staff and the UCPG FBA subcommittee's review of the development schedule resulted in a decrease in anticipated development (ADTs), primarily due to the removal of parcels that have no further development rights. The combination of increasing project costs, additional projects, reduction of anticipated ADTs, and reduced revenue due to the downturn in the economy has necessitated an increase of 5% in the assessment rate. Changes that offset potential increases to the fee include replacing FBA funding with Transnet and deferring construction timing assumptions of some facilities.

The following changes are proposed for the assessments of FY 2009:

<b>Land Use</b>	<b>FY 2009 Assessment</b>	<b>Proposed FY 2009 Assessment</b>
Single Family Unit	\$18,581	<b>\$19,510</b>
Multi-Family Unit	\$13,007	<b>\$13,658</b>
Commercial ADTs	\$1,251	<b>\$1,314</b>

**FISCAL CONSIDERATIONS:**

Adoption of the designated area of benefit will continue to provide a funding source for the public facilities identified in the North University City Public Facilities Financing Plan FY 2009.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:** None.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The September 2008 version of the plan incorporating the Westfield/UTC expansion was presented to the UCPG at their September 9, 2008 meeting (please refer to Attachment #4 for more detail). The UCPG approved the April 2008 version of the PFFP by a vote of 12-1-1, with the following caveats (please refer to Attachment #3 for staff response to the motions):

1. The \$7.7 million appropriation for the Regents Road Bridge project for FY 2009 must be moved to FY 2010.
2. The Limited Roadway Changes (included in Project NUC-18B in financing plan) should not be fully funded with FBA funds.
3. The \$4 million for improvements in Rose Canyon should be separated from NUC-18.
4. Construction of the new fire station should be moved from FY 2013-2014 to FY 2010.
5. In conformance with the community plan amendment, a second fire station should be added to the financing plan and should be funded no later than FY 2012.

This current version of the plan, dated November 2008, will be provided to the group prior to the Council hearing scheduled on November 10, 2008.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

All property owners with remaining new development are listed on the draft North University City Assessment Roll, beginning on page 163. These property owners will be mailed a notice of the public hearing and a copy of the financing plan. The owners will have liens placed upon their property and will be required to pay an FBA upon any building permit issuance. Redevelopment that increases the intensity of existing uses may be subject to an impact fee.

Anderson/Gabriel

**NOTE:** This plan is a financing measure and is exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

Staff: Cheryl M. Robinson – (619) 533-3679  
Jana Garmo– Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:59 p.m. – 5:00 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Peters. Passed by the following vote:  
Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,  
Madaffer-not present, Hueso-yea.

ITEM-205: Authorizing Continued Agreement with Paul Plevin Sullivan & Connaughton,  
LLP for Legal Services Regarding *James M. Chapin and Penny L. Castleman v.*  
*Office of the City Attorney, City of San Diego.*

**CITY ATTORNEY’S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-401) ADOPTED AS RESOLUTION R-304345

Authorizing the City Attorney to continue the Contract with Paul Plevin Sullivan & Connaughton, LLP for outside counsel services for an additional amount not to exceed \$150,000 to defend any and all claims by *James M. Chapin and Penny L. Castleman v. Office of the City Attorney, City of San Diego;*

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

**SUPPORTING INFORMATION:**

On or about October 6, 2005, James M. Chapin and Penny L. Castleman filed a complaint for wrongful constructive termination in Federal District Court. The City needed outside legal counsel to represent the City in the case titled *Chapin and Castleman v. Aguirre and City of San Diego* because the parties are former City employees and the complaint arises out of the actions allegedly taken by the City Attorney's Office and the City of San Diego. Paul Plevin Sullivan & Connaughton, LLP, has been identified as the firm best able to provide the necessary services within the required time frame.

For the defense against Penny L. Castleman initial representation was authorized for up to \$100,000 and has been paid from Contract No. C-13218 filed with the Office of the City Clerk on March 24, 2005.

For the defense against James M. Chapin initial representation was authorized for up to \$100,000 and has been paid from Contract No. C-13318 filed with the Office of the City Clerk on June 27, 2005.

Representation costs to date have been approximately \$254,000, of which approximately \$54,000 is currently outstanding and payable.

**FISCAL CONSIDERATIONS:**

Authorize an additional amount of up to \$150,000 to be paid from the Public Liability Fund, for a cumulative cost not to exceed \$350,000.

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

On September 16, 2008, the City Council in Closed Session on Item CS-6, heard an update of Chapin and Castleman v. Aguirre and City of San Diego, et al., Federal District Court Case No. 05CV1906 R (POR) and approved the case strategy and the continued retention of outside counsel. The motion was made by Council President Peters and the second by Council President Pro Tem Madaffer. The motion passed 7 to 1 with Councilmember Hueso voting "No".

On January 15, 2008, the City Council in Closed Session, Item CS-4, heard a settlement offer by the Plaintiff. The offer was rejected.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A**

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Paul Plevin Sullivan &amp; Connaughton, LLP

Tomanek

Aud. Cert. 2900308.

FILE LOCATION: MEETCOUNCIL ACTION: (Time duration: 3:42 p.m. – 3:42 p.m.)

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-nay.

ITEM-206: Retention of Lynberg and Watkins for Legal Services for the Case *Pablo Gomez v. The City of San Diego, et al., Superior Court Case No. GIC 877892.*

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-482) ADOPTED AS RESOLUTION R-304346

Authorizing the City Attorney to enter into a contract with Lynberg & Watkins, for co-counsel services for an amount not to exceed \$500,000;

Authorizing the City Attorney to retain Lynberg & Watkins for the provision of legal services in *Pablo Gomez v. City et al., Case No. GIC 877892*;

Authorizing the City Comptroller to expend up to \$500,000 from the Public Liability fund on this matter.

SUPPORTING INFORMATION:

\$500,000 is being requested for this matter. Plaintiff alleges he sustained injuries at the hands of a police officer on June 29, 2006. Plaintiff filed his lawsuit on January 4, 2007.

The City's insurance carrier requested that the City add co-counsel in this litigation.

Lynberg & Watkins LLP tried this case to a jury who found for the Plaintiff.

FISCAL CONSIDERATIONS:

The City shall compensate Lynberg & Watkins LLP based on its hourly rates for consulting services. This Request has a not-to-exceed amount of \$500,000 and will be borne by the Public Liability Fund.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This is the initial request of Council for approval of services for the above-listed matter.

In the Closed Session Meeting of September 9, 2008, Item CS-2, the City Council heard a status report of this case. No motion was made.

In the Closed Session Meeting of May 27, 2008, Item CS-2, the City Council heard a status report of this case. No motion was made.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Lynberg & Watkins LLP

Tomanek

Aud. Cert. 2900310.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:03 p.m. – 9:04 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-not present, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-207: San Diego Facilities and Equipment Leasing Corporation 2008 Bylaws.

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-153) CONTINUED TO MONDAY, NOVEMBER 17, 2008

Declaring that the Original Bylaws are ineffective and of no further force and effect, and approving the 2008 Bylaws. The 2008 Bylaws shall, immediately upon the effective date of this Resolution, govern the operations of the Corporation for all purposes and the Corporation shall, at all meetings and in connection with all corporate actions taken after such effective date, operate pursuant to the provisions of the 2008 Bylaws;

Declaring that a copy of the 2008 Bylaws shall be filed by the City Clerk of the City with the California Secretary of State, together with a certified copy of this Resolution.

**SUPPORTING INFORMATION:**

The San Diego Facilities and Equipment Leasing Corporation, a California nonprofit charitable corporation ("Corporation"), was formed in 1998 to assist in the financing, acquisition, construction and improvement of certain capital facilities improvements for the City of San Diego ("City"). The City, as the sole Member of the Corporation, retained the power to amend the Corporation's Bylaws through the City Council. Those Bylaws originally contained cumbersome procedures, nonfunctional committees and audit requirements inconsistent with current law and practice. The original methodology for filling vacancies on the Board of the Corporation, for example, was described in two conflicting ways within the Bylaws; in one place, the Directors served ex officio during the term of their City position (City Attorney, City Auditor and City Manager), while in another, two remaining Directors were authorized to pick a third. The City Attorney's Office retained the Law Firm of Fulbright & Jaworski L.L.P. to represent the Corporation and the attached revised new 2008 Bylaws are their recommendation to bring the Corporation into compliance with the Corporations Code and City practice and to clarify the application of the Brown Act to the Corporation's meetings.

**FISCAL CONSIDERATIONS:** None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

OTHER RECOMMENDATIONS:

None. The proposed changes to the Corporation's Bylaws are not subject to the review or approval of the Corporation's Board.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): None.

Epley

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 9:04 p.m. – 9:05 p.m.)

MOTION BY FRYE TO CONTINUE TO MONDAY, NOVEMBER 17, 2008, TO ALLOW MORE TIME. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-not present, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-208: Nominations to the San Diego Unified Port District Board of Commissioners.

(See memorandum from Councilmembers Atkins and Hueso dated 10/21/2008; memorandum from Council President Pro Tem Madaffer, and Councilmembers Atkins and Faulconer dated 10/15/2008; and memorandum from Councilmember Young dated 10/14/2008.)

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Take the following actions:

(R-2009-647) ADOPTED AS RESOLUTION R-304347

Council is asked to select two candidates being considered for reappointment and appointment for two terms ending on January 2, 2013. Commissioner Sylvia Rios is not seeking reappointment. Commissioner Laurie J. Black is seeking reappointment:

- Laurie J. Black (Bankers Hill) nominated for reappointment by Council President Pro Tem Jim Madaffer, and Councilmembers Toni Atkins and Kevin Faulconer, for a term ending January 2, 2013.
- Robert A. McNeely (Point Loma) nominated for appointment by Councilmember Anthony Young, for a term ending January 2, 2013.
- Scott H. Peters (La Jolla) nominated for appointment by Councilmembers Toni Atkins and Ben Hueso, for a term ending January 2, 2013.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:24 p.m. – 3:32 p.m.)

Motion by Frye to continue to January 12, 2009, to allow the new Council Members to vote. Second by Young. Failed. Yeas-4, 6; Nays-2, 3, 5, 7, 8; Recused-1.

Motion to appoint Robert A. McNeely to the San Diego Unified Port Commission. Failed. Yeas-4, 5, 6, 8; Nays-2, 3, 7; Recused-1.

MOTION TO REAPPOINT LAURIE J. BLACK TO THE SAN DIEGO UNIFIED PORT COMMISSION. Passed by the following vote: Peters-recused, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-nay, Frye-yea, Madaffer-yea, Hueso-nay.

MOTION TO APPOINT SCOTT PETERS TO THE SAN DIEGO UNIFIED PORT COMMISSION. Passed by the following vote: Peters-recused, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-209: Declaring a Continued State of Emergency Regarding the Wildfires.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-42) ADOPTED AS RESOLUTION R-304348

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 - Declaring a Continued State of Emergency  
Regarding the Wildfires

COUNCIL ACTION: (Time duration: 3:43 p.m. – 3:43 p.m.)

MOTION BY MAIENSCHIN 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-210: 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-2009-60) ADOPTED AS RESOLUTION R-304349

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: 9:02 p.m. – 9:02 p.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-not present, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-211: 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-2009-4)                      ADOPTED AS RESOLUTION R-304350

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

FILE LOCATION:                      GEN'L - Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION:                      (Time duration: 9:02 p.m. – 9:02 p.m.)

MOTION BY HUESO TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-not present, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-212: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-12)                      ADOPTED AS RESOLUTION R-304351

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: 9:03 p.m. – 9:03 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-not present, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-213: Sycamore Landfill Master Plan. Project No. 5617. Request for a Community Plan/General Plan Amendment, Rezone from AR-1-2 and RS-1-8 to IH-2-1, Lot Consolidation Parcel Map, Easement and Street Vacations, Planned Development with deviations to development regulations and Site Development Permit for Environmentally Sensitive Lands for the Sycamore Landfill Master Plan at 8514 Mast Boulevard. (East Elliot Community Plan Area. District 7.)

Matter of approving, conditionally approving, modifying, or denying a Community Plan/General Plan Amendment, Rezone from AR-1-2 and RS-1-8 to IH-2-1, Lot Consolidation Parcel Map, Easement and Street Vacations, Planned Development with deviations to development regulations and Site Development Permit for Environmentally Sensitive Lands for the Sycamore Landfill Master Plan at 8514 Mast Boulevard in the East Elliott Community Plan, Mission Trails Design District. The project would redesignate approximately 26 acres from Residential to Landfill uses for continued and future landfill operations and aggregate extraction and processing facility, and to change the hours of operations to allow landfill activities twenty-four hours a day. Additional operational changes proposed at the Sycamore Landfill include an increase in the daily tonnage of waste received and the volume of traffic allowed on a daily basis. A proposed height increase would expand the site's capacity. The project would rezone the landfill site from AR-1-2 and RS-1-8 to IH-2-1, vacate both numbered and unnumbered easements, vacate and convey road easements acquired by Caltrans and a Planned Development Permit and Site Development Permit amending prior entitlements on the property. EIR No. 5617, SCH No. 2003041057.

**\* 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.**

(FEIR Project No. 5617/Findings and Statement of Overriding Considerations/MMRP/GPA and CPA No. 9917/Public R-O-W Vacations No. 534709 and Easement Vacations No. 534708 on Parcel Map No. 534711/R-O-W Vacation No. 534709 on a Portion of Map No. 1703/SDP No. 9310/PDP No. 9309/RZ No. 534712/Conveying Vacated Access Road Easement to the Applicant.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolutions and introduce the ordinance:

Subitem-A: (R-2009- )      ADOPTED AS AMENDED AS RESOLUTION R-304352

Certifying that the information contained in Environmental Impact Report No. 5617/SCH No. 2003041057, 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 Administration Code 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 the City Council;

That pursuant to California Public Resources Code section 21081 and Administrative Code section 15091, the City Council hereby adopts the Findings made with respect to the Project, a copy of which is attached hereto (Exhibit A) and incorporated herein by reference;

That pursuant to California Administrative Code section 15093, the City Council hereby adopts the Statement of Overriding Considerations, a copy of which is attached hereto (Exhibit A) and incorporated herein by reference;

That pursuant to California Public Resources Code section 21081.6, the City Council hereby 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 (Exhibit B) and incorporated herein by reference;

That Environmental Impact Report No. 5617/SCH No. 2003041057, a copy of which is on file in the Office of the City Clerk, is hereby approved;

That the City Clerk is directed 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(s) according to Section 40 of the City Charter.

Subitem-B: (R-2009- ) ADOPTED AS RESOLUTION R-304353

Approving amendments to the East Elliot Community Plan and General Plan in connection with the Sycamore Landfill Master Plan Project (Project No. 5617).

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

Subitem-C: (R-2009- ) ADOPTED AS RESOLUTION R-304354

Authorizing the vacation and abandonment of Public Rights-of-Way and Easements in connection with the Sycamore Landfill Master Plan Project (Project No. 5617);

Certifying findings with respect to each public right-of-way;

Certifying findings with respect to each public service easement;

Authorizing and directing the City Clerk to endorse upon the MAP, as and for the act of the Council, and that the Council has approved the MAP on behalf of the public as stated in this resolution;

Directing the City Clerk to transmit the MAP to the County Recorder of the County of San Diego, California, for recordation.

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

Subitem-D: (R-2009- ) ADOPTED AS RESOLUTION R-304355

Authorizing the vacation of Public Right-of-Way in connection with the Sycamore Landfill Master Plan Project (Project No. 5617);

Certifying findings with respect to each public right-of-way;

Ordering vacated the unnamed street, as more particularly described in the legal description (attached hereto as "Exhibit A" and incorporated herein) and as more particularly shown of Drawing No. 20899-B (Attached hereto as "Exhibit B" and incorporated herein);

That said street vacation is conditioned upon approval and issuance of Site Development Permit No. 9310 and Planned Development Permit No. 9309;

That the City Clerk shall cause a certified copy of the resolution, with attached exhibits, attested by her under seal, to be recorded in the Office of the County Recorder.

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

Subitem-E: (R-2009- ) ADOPTED AS AMENDED AS RESOLUTION R-304356

Granting Site Development Permit No. 9310 and Planned Development Permit No. 9309, amending Development Permit Nos. 40-0765, 6066-PC, and amending 6066-PC Amendments 1 & 2 for the Sycamore Landfill Master Plan, Project No. 5617.

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

Subitem-F: (R-2009- ) INTRODUCED, TO BE ADOPTED TUESDAY,  
DECEMBER 2, 2008

Changing 517 acres located at 8514 Mast Boulevard, within the East Elliot Community Plan Area, in the City of San Diego, California, from the AR-1-2 and RS-1-8 Zones into the IH-2-1 Zone, as defined by San Diego Municipal Code Section 131.0604 and repealing Ordinance No. 10864 (New Series), adopted June 29, 1972, of the ordinances of the City of San Diego insofar as the same conflict herewith.

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

**NOTE:** Subitem F is not subject to the Mayor's veto.

Subitem-G: (R-2009- ) ADOPTED AS RESOLUTION R-304357

Authorizing the conveyance of the vacated access road easement from the City of San Diego to Sycamore Landfill, Inc.;

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

**OTHER RECOMMENDATIONS:**

Planning Commission on October 23, 2008, voted 4-0-3 to deny Staff Recommendations with the knowledge that the Planning Commission voted in that manner to send the project on to Council for decision. An earlier vote to approve Staff Recommendations failed by a vote of 3-1-3.

Ayes: Schultz, Golba, Otsuji, Ontai  
Absent: Naslund, Griswold, Smiley

There is no active officially recognized community planning group for this area.

**STAFF SUPPORTING INFORMATION:****REQUESTED ACTION:**

Approval of the Sycamore Landfill Master Plan and related actions to allow the site, which is already approved for use as a solid waste disposal facility, to be developed to extend the capacity of this necessary public facility. The site is located on a 517 acre site at 8514 Mast Boulevard in the East Elliot Community Plan Area.

**STAFF RECOMMENDATION:**

1. **Certify** Environmental Impact Report (EIR) No. 5617, SCH No. 2003041057; adoption of the Mitigation, Monitoring and Reporting Program (MMRP); and adoption of Candidate Findings and Statement of Overriding Considerations;
2. **Approve** the East Elliot Community Plan and General Plan Amendment No. 9917;
3. **Adopt** Rezone No. 534712;
4. **Approve** Public Right of Way Vacations No. 534709 and Easement Vacations No. 534708 on Parcel Map No. 534711;
5. **Approve** Right-of-Way Vacation No. 534709 on a Portion of Map No. 1703;
6. **Approve** Site Development Permit No. 9310 and Planned Development Permit No. 9309 to amend Prior Permit No. 40-0765; and
7. Recommend the City Council **convey** the Vacated Access Road Easement to the applicant.

**EXECUTIVE SUMMARY:**

The Sycamore Landfill Master Plan project, which is designated as "landfill" in the East Elliott Community Plan, is proposed to be increased by approximately 26 acres, bringing the total area of that plan designation to approximately 517 acres. The proposed maximum height of the proposed landfill is 1,050 feet above mean sea level (AMSL).

The project also provides for an increase in daily tonnage from the current limit of 3,965 tons per day to 6,800 (MSW) tons per day through approximately 2010, increasing gradually until it reaches 13,000 tons per day in approximately 2025 and through estimated landfill closure in 2028 or later. The site would continue to be used for aggregate material excavation and processing. The Master Plan would also allow an increase in permitted traffic to 6,880 ADT, subject to traffic mitigation requirements, transmission line relocation, construction of new permanent maintenance and operations/office facilities, relocated scales, public drop-off facilities for refuse and recyclables, expanded landfill gas management and power generation facilities, a new water storage tank for dust suppression and fire control, a new/relocated fueling facility and surface water management structures including utilities, initiation of enhanced

green/wood material processing operation to assist local governments in diverting additional organic material from the landfill waste stream, initiation of construction and demolition (C&D) materials processing for recovery, construction of a perimeter access road and landscaping of the entrance, and up to 24 hours of landfill operations (receiving and processing waste), seven days a week.

FISCAL CONSIDERATIONS:

No cost to the City. A deposit account funded by the applicant recovers all costs associated with the processing of the project application.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On October 23, 2008, the Planning Commission made a motion to approve Staff Recommendations, which failed by a vote of 3-1-3. Due to not having four affirmative votes, the project would have automatically trailed to the next hearing. The applicant then requested that the Commission deny the project so it could move forward to City Council. A second motion was made to deny Staff Recommendations with the knowledge that the Planning Commission voted in that manner to send the project on to Council for decision. The motion to deny Staff Recommendations passed by a vote of 4-0-3.

The project site is located in the East Elliot Community Plan Area. There is no active Community Planning Group for this area.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Sycamore Landfill, Inc.

Anderson/Broughton

LEGAL DESCRIPTION:

The project site is generally bounded by MCAS Miramar to the north, the eastern ridge line of Little Sycamore Canyon to the east, SR-52 to the south, and the western ridge line of Little Sycamore Canyon to the west. In addition, new transmission line structures would be built within the existing SDG&E transmission line easement areas that cross APNs 366-040-32 and 366-070-31 as well as a modified SDG&E easement along the western and northern perimeter of the landfill. The Project is within the East Elliott Community Planning Area and is more particularly described as Assessor's Parcel Numbers (APNs) 366-041-01, 366-080-57, 366-031-14, 366-031-18, 366-070-13, 366-080-16, 366-080-25, 366-080-26, and Caltrans right-of-way #26-203-3).

Staff: Jeannette Temple – (619) 557-7908  
Adam Wander – Deputy City Attorney

FILE LOCATION: SUBITEMS A, B, C, D, E, G: MEET  
SUBITEM F: NONE

COUNCIL ACTION: (Time duration: 6:46 p.m.-9:01 p.m.)

Testimony in opposition by Mayor Randy Voepel, Jack Dale, David Dilday, Felix Tinkov, Ken Lounsbery, Bob Allan, Richard Mutch, Catherine Carter, Katherine Pettigrew, Helen Mobius, Katherine Finn, Van Collinsworth, Gary Triphan, Jarvis Ross, Cynthia Conger, and Tom Grady.

Testimony in favor by Johnnie Perkins, Angelika Villagrana, and Alan Pentico.

MOTION BY MADAFFER TO ADOPT THE RESOLUTIONS IN SUBITEMS B, C, D, AND G; AND INTRODUCE THE ORDINANCE IN SUBITEM F; AND ADOPT THE RESOLUTION IN SUBITEMS A AND 3E WITH THE FOLLOWING CONDITIONS: SAN DIEGO AND SANTEE SHALL WORK TOGETHER REGARDING GREEN WASTE DISPOSAL; INCREASE HEIGHT LIMIT AND CUBIC YARD CAPACITY; UPDATE ODOR MANAGEMENT PLAN PRIOR TO EXPANSION; CONTOUR GRADING AND LANDSCAPING OF SLOPES VISIBLE TO THE SOUTH SO AS TO APPEAR AS OPEN SPACE; ADDRESS STORAGE OF VEHICLES; APPLICANT SHALL CONTINUE METHANE CAPTURE METHOD; DISCOURAGE APPLICANT FROM SOLICITING WASTE FROM OUTSIDE SAN DIEGO COUNTY. Second by Peters. Passed by the following vote: Peters-yea, Falconer-yea, Atkins-yea, Young-not present, Maienschein-not present, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-214: Quarry Falls. Project No. 49068. Rezoning 225 acres located north of Friars Road, south of Phyllis Place, between Mission Center Road and Interstate 805 within the Mission Valley Community Plan Area. (Mission Valley and Serra Mesa Community Plan Areas. District 6.)

(See Report to City Council No. 08-138.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 10/21/2008, Item 331, Subitem F. (Council voted 7-1. Councilmember Frye voted nay):

(O-2009-46 Cor. Copy)      ADOPTED AS O-19807 (NEW SERIES)

Rezoning 225 acres located north of Friars Road, south of Phyllis Place, between Mission Center Road and Interstate 805 within the Mission Valley Community Plan Area from the RS-1-7, MVPD-MV-M, and MVPD-MV/SP Zones to the OP-2-1, RS-1-7, RM-1-1, RM-2-4, RM-3-7, RM-3-8, RM-3-9, RM-4-10, CC-3-5, and IL-3-1 Zones, as defined by San Diego Municipal Code Sections 131.0202, 131.0403, 131.0406, 131.0507, and 131.0603 and repealing Ordinance Nos. O-17499 (New Series) and O-13457 (Old Series) adopted August 22, 1990 and March 17, 1932 respectively, of the Ordinances of the City of San Diego insofar as the same conflict herewith.

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

**FILE LOCATION:**              MEET

**COUNCIL ACTION:**              (Time duration: 3:41 p.m. - 3:42 p.m.)

MOTION BY HUESO TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-not present, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-250: Notice of Pending Final Map Approval – Pearl Street Townhomes.

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 "Pearl Street Townhomes" (T.M. No. 431879/PTS No. 160373), located on the northwest corner of Pearl Street and Herschel Avenue in the La Jolla Community Plan Area in Council District 1, 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: Notice of Pending Final Map Approval – 6867 Golfcrest Drive.**

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 "6867 Golfcrest Drive" (T.M. No. 228098/PTS No. 157789), located on Golfcrest Drive between Jackson Drive and Golfcrest Place in the Navajo Community Plan Area in Council District 3, 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-252: **Notice of Pending Final Map Approval – 445 West University Avenue.**

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 "445 West University Avenue" (T.M. No. 230565/PTS No. 150827), located on University Avenue east of Dove 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-253: Notice of Pending Final Map Approval – 111 Pennsylvania Avenue.

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 “111 Pennsylvania Avenue” (T.M. No. 237281/PTS No. 156434), located on the northeast corner of Front Street and Pennsylvania Avenue 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.

NON-DOCKET ITEMS:

None.

000278

Minutes of the Council of the City of San Diego  
for the Regular Meeting of Monday, November 10, 2008

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ADJOURNMENT:

The meeting was adjourned by Council President Peters at 9:05 p.m.

FILE LOCATION:           AGENDA

COUNCIL ACTION:       (Time duration: 9:05 p.m. – 9:05 p.m.)

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Elizabeth S. Maland, City Clerk  
City of San Diego

000279

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR THE ADJOURNED REGULAR COUNCIL MEETING  
OF  
TUESDAY, NOVEMBER 11, 2008  
AT 9:00 A.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Present: None.

Not Present: Council Members Peters, Faulconer, Atkins, Young, Maienschein, Frye,  
Madaffer, Hueso.

Clerk: Zumaya.

Due to the observance of Veteran's Day, the City Council meeting of Tuesday, November 11, 2008, has been adjourned, pursuant to the 2008 Legislative Calendar, adopted by Resolution R-303207 on December 3, 2007.

The next regularly scheduled meetings of the City Council are Monday, November 17, 2008 at 2:00 p.m. and Tuesday, November 18, 2008 at 9:00 a.m. The City Council will meet in Closed Session from 9:00 a.m.-10:00 a.m. (The public portion of Tuesday's meeting will begin at 10:00 a.m.)

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Elizabeth S. Maland, City Clerk  
City of San Diego

000281

**UNAPPROVED**

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR THE ADJOURNED REGULAR COUNCIL MEETING  
OF  
NOVEMBER 4, 2008  
AT 10:00 A.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Present: None.

Not Present: Council Members Peters, Faulconer, Atkins, Young, Maienschein, Frye,  
Madaffer, Hueso.

Clerk: Zumaya.

The City Council meeting of Tuesday, November 4, 2008, has been adjourned, pursuant to the 2008 Legislative Calendar, adopted by Resolution R-303207 on December 3, 2007.

The next regular City Council meeting is on Monday, November 10, 2008. Due to the observance of Veteran's Day, the City Council meeting of Tuesday, November 11, 2008, has also been adjourned, pursuant to the 2008 Legislative Calendar, adopted by Resolution R-303207 on December 3, 2007.

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Elizabeth S. Maland, City Clerk  
City of San Diego

000283

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR THE ADJOURNED REGULAR COUNCIL MEETING  
OF  
MONDAY, NOVEMBER 3, 2008  
AT 2:00 P.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Present: None.

Not Present: Council Members Peters, Faulconer, Atkins, Young, Maienschein, Frye,  
Madaffer, Hueso.

Clerk: Richardson.

The City Council meeting of Monday, November 3, 2008 has been adjourned, pursuant to the 2008 Legislative Calendar, adopted by Resolution R-303207 on December 3, 2007.

The next regular City Council meeting is on Monday, November 10, 2008. Due to the observance of Veteran's Day, the City Council meeting of Tuesday, November 11, 2008, has also been adjourned, pursuant to the 2008 Legislative Calendar, adopted by Resolution R-303207 on December 3, 2007.

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Elizabeth S. Maland, City Clerk  
City of San Diego

000285

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, OCTOBER 28, 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 10:05 a.m. Council President Peters recessed the meeting at 11:23 a.m. for the purpose of a break. Council President Peters reconvened the meeting at 11:32 a.m. with all Council Members present. The meeting was recessed by Council President Peters at 11:42 a.m.

The meeting was reconvened by Council President Peters at 2:06 p.m. with all Council Members present. Council President Peters recessed the meeting at 2:08 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 2:09 p.m. with all Council Members present and reconvened the Redevelopment Agency, and the Housing Authority, thereafter. Council President Peters reconvened the regular meeting at 2:15 p.m. with all Council Members present. Council President Peters recessed the meeting at 2:21 p.m. to reconvene the Redevelopment Agency and the Housing Authority, thereafter. Council President Peters reconvened the regular meeting at 2:30 p.m. with all Council Members present and reconvened the Redevelopment Agency, thereafter. Council President Peters reconvened the regular meeting at 2:31 p.m. with all Council Members present and the Redevelopment Agency, thereafter. Council President Peters recessed the Redevelopment Agency at 2:33 p.m. to reconvene the Housing Authority, and the Redevelopment Agency, thereafter. Council President Peters recessed the Redevelopment Agency at 3:39 p.m. for the purpose of a break. Council President Peters reconvened the Redevelopment Agency at 3:50 p.m. with all Council Members present. Council President Peters reconvened the regular meeting at 4:59 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 5:01 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 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

## NON-AGENDA COMMENT:

## PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:54 a.m. – 9:55 a.m.)

## PUBLIC COMMENT-2:

Nancelle Lauffer commented on the poor living on the streets.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:55 a.m. - 9:57 a.m.)

## PUBLIC COMMENT-3:

Cricket Bradburn commented on priority assessments.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:58 a.m. – 10:00 a.m.)

## PUBLIC COMMENT-4:

Bob Kuczewski commented on the Torrey Pines Gliderport.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:03 a.m. - 10:05 a.m.)

PUBLIC COMMENT-5:

Marvin Carpenter commented on improving our city.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:05 a.m. - 10:08 a.m.)

PUBLIC COMMENT-6:

Al Strohleim commented on ballot measures.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:08 a.m. - 10:11 a.m.)

PUBLIC COMMENT-7:

Phil Hart commented on Quarry Falls.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:13 a.m. - 10:16 a.m.)

PUBLIC COMMENT-8:

Robert McNamara commented on the Ethics Commission.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:16 a.m. - 10:19 a.m.)

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for the Regular Meeting of Tuesday, October 28, 2008

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PUBLIC COMMENT-9:

Joy Sunyata commented on redevelopment.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:20 a.m. - 10:21 a.m.)

PUBLIC COMMENT-10:

Harry Crouch commented on the Family Justice Center and YWCA transfer.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:21 a.m. - 10:23 a.m.)

PUBLIC COMMENT-11:

Izean Rim Jr. commented on public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:27 a.m. - 10:30 a.m.)

PUBLIC COMMENT-12:

Thomas Glasser commented on a child living in a car.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:30 a.m. - 10:33 a.m.)

PUBLIC COMMENT-13:

Joey Rocano commented on the 301 (h) waiver.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. - 10:37 a.m.)

PUBLIC COMMENT-14:

Mark Green commented on the oversized vehicle ban.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. - 10:40 a.m.)

PUBLIC COMMENT-15:

David Ross commented on the displaced in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:40 a.m. - 10:43 a.m.)

COUNCIL COMMENT:

None.

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Vicki Granowitz Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-452) ADOPTED AS RESOLUTION R-304309

Commending and thanking Vicki Granowitz for the contributions she has made to the City of San Diego's North Park community;

Proclaiming September 26, 2008, as "Vicki Granowitz Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:25 a.m. – 9:32 a.m.)

MOTION BY ATKINS TO ADOPT. 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: Coalition of Neighborhood Councils Day.

**COUNCILMEMBER YOUNG'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-305) ADOPTED AS RESOLUTION R-304310

Proclaiming October 28, 2008, as "Coalition of Neighborhood Councils Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:33 a.m. – 9:41 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-32: Shawne Merriman Day.

**COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-367) ADOPTED AS RESOLUTION R-304311

Proclaiming October 28, 2008, as "Shawne Merriman Day" in the City of San Diego in recognition of his many outstanding contributions and service to San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:41 a.m. – 9:47 a.m.)

MOTION BY MAIENSCHIN TO ADOPT. 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-50: Amendment to the Ethics Commission's Investigative and Enforcement Procedures.

(See Report from the City Attorney dated 10/9/2008; 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.)

**CITY COUNCIL'S RECOMMENDATION:**

On October 13, 2008, Item 150, motion by Council was as follows:  
Motion by Frye to introduce the Ordinance as amended and proposed by the Rules Committee and as reflected in the Memorandum from the Ethics Commission dated September 12, 2008, with the following exclusions.

1. B1) Prohibition on providing false evidence.
2. D1) Subpoenas of Witness during investigation.
3. D2) Objections to Investigative Subpoenas.

Adopt the following ordinance which was introduced as amended on 10/13/2008, Item 150. (Council voted 8-0):

(O-2009-43 Rev.) ADOPTED AS ORDINANCE O-19797 (New Series)

Amending Chapter 2, Article 6, Division 4 of the San Diego Municipal Code by amending Sections 26.0402, 26.0404, 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 Investigation and Enforcement Procedures.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:47 a.m. -- 9:48 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. 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-51: 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.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 10/14/2008, Item 50. (Council voted 8-0):

(O-2009-15) ADOPTED AS ORDINANCE O-19798 (New Series)

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.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:47 a.m. – 9:48 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. 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-52: 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. (Citywide.)

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

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinances which were introduced on 10/13/2008, Item 204, Subitems A-G. (Council voted 8-0):

Subitem-A: (O-2009-29 Cor. Copy)                      ADOPTED AS ORDINANCE O-19799  
(New Series)

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.

Subitem-B: (O-2009-30 Cor. Copy 2)           ADOPTED AS ORDINANCE O-19800  
(New Series)

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.

Subitem-C: (O-2009-31 Cor. Copy 2)           ADOPTED AS ORDINANCE O-19801  
(New Series)

Amending the San Diego Municipal Code by amending Chapter 11, Article 3, Division 1, by amending Section 113.0103; 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.

Subitem-D: (O-2009-32 Cor. Copy)           ADOPTED AS ORDINANCE O-19802  
(New Series)

Amending the San Diego Municipal Code by amending Chapter 14, Article 2, 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.

Subitem-E: (O-2009-33 Cor. Copy 2)      ADOPTED AS ORDINANCE O-19803  
(New Series)

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.

Subitem-F: (O-2009-34 Cor. Copy 2)      ADOPTED AS ORDINANCE O-19804  
(New Series)

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.

Subitem-G: (O-2009-35 Cor. Copy 2)

ADOPTED AS ORDINANCE O-19805.  
(New Series)

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.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:47 a.m. – 9:48 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCES. 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: Inviting Bids for the Construction of Water Group 785. (Clairemont Mesa Community Area. District 6.)

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

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-131)

ADOPTED AS RESOLUTION R-304313

Approving the plans and specifications for the construction of the Water Group 785 (Project) as advertised by Purchasing and Contracting Department, on Work Order No. 187881;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to establish contract-funding phases and execute a contract with the lowest responsible and reliable bidder, provided that the City Comptroller first furnishes one or more certificates certifying that the 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 \$4,128,334 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 Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under contract-funding phases 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 construction of the Project in an amount not to exceed \$450,490;

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

Declaring that this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301(b) as this involves repair and replacement of existing facilities. (BID-K094298C)

**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:**

Water Group 785 is part of the City's continuing Capital Improvement Water Main Replacement Program. It is located in the Bay Park neighborhood of the Clairemont Mesa community. The existing water main was installed during the 1950's. The proposed construction involves the replacement of approximately 8,966 LF of 6", 8" and 12" cast-iron pipe and will utilize the existing alignment. The project also includes installing curb ramps and street slurry-seal. The work will be performed along Milton Street between Morena Boulevard and Tokalon Street and includes portions of Illion Street, Cecelia Terrace, Dunhaven Street, Penrose Street and Tokalon Street. The contractor will prepare traffic control plans and will implement them during construction after review and approval by the City.

**EQUAL OPPORTUNITY CONTRACTING:**

Funding Agency: City of San Diego

Goals: 21% Mandatory Subcontractor Participation Goal, 7% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 13% Advisory Participation Goal Other Business Enterprise (OBE).

Other: Prior to award, a workforce 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 nonresponsive. 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 \$4,128,334. Funding is available from the Enterprise Fund in CIP-73-083.0, Annual Allocation - Water Main Replacement, Fund 41500, Water, 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 FY09 to FY10. 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, this project was presented to Clairemont Mesa Community Planning Board on March 18, 2008. Residents and businesses will be notified by the City's Engineering and Capital Projects Department at least one (1) month before construction begins and by the contractor at least ten (10) days before construction begins through hand distribution notices.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

The key stakeholders are identified as the public and the municipality. The project impacts include improved reliability and capacity. No new fees or regulations are proposed.

Boekamp/Jarrell

FILE LOCATION: W.O. 187881

COUNCIL ACTION: (Time duration: 9:47 a.m. – 9:48 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: Council Policy 900-15 (Small Business Enhancement Program) Amendments.  
(Citywide.)

(See Report to the City Council No. 08-143; City Planning and Community Investment Department's 8/6/2008; 1472 and Executive Summary Sheet; FY 2009 Agreement Between City of San Diego and Business Improvement District Council.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

Subitem-A: (R-2009-329 Corr. Copy) ADOPTED AS RESOLUTION R-304313

Authorizing the Mayor, or his designee, to execute an Agreement with the BID Council in an amount not to exceed \$315,000 to implement revised Council Policy 900-15 for BID Council Program Support and Operations, for Micro-Districts and Commercial Neighborhoods grants and services, and for Technical Assistance Projects;

Authorizing the expenditure of an amount not to exceed \$315,000 from Fund 100, Department 065, for the purpose of executing such Agreement with the BID Council;

Authorizing the transfer of funds not to exceed \$315,000 from Fund 100, Department 065, to BID Funds 10550 through 10568 to implement provisions of revised Council Policy 900-15 for BID Management Support;

Authorizing expenditure of funds not to exceed \$170,000 from Fund 100, Department 065 to implement revised Council Policy 900-15 for City Fees and Services offset.

Subitem-B: (R-2009-330) ADOPTED AS RESOLUTION R-304314

Amending Council Policy No. 900-15, titled "Small Business Enhancement Program" as set forth in the Council Policy;

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

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

On 10/8/2008, Rules voted 5 to 0 to approve the staff recommendation. (Councilmembers Peters, Young, Frye, Madaffer, and Hueso voted yea.)

**SUPPORTING INFORMATION:**

In 1995, the City Council established a Small Business Enhancement Program (SBEP) with an annual General Fund appropriation equivalent to \$20 per small business registered with the City. The purpose of the SBEP was to provide continuing support to small businesses in recognition of their vital economic, employment, service, and cultural roles, and their importance in sustaining and revitalizing older commercial and residential areas. In 1999, the City Council established Council Policy 900-15 (Small Business Enhancement Program) to clarify SBEP's unique annual appropriation formula and to provide for accountability, efficiency, and flexibility in the administration of the program.

As was anticipated when Council Policy 900-15 was adopted, SBEP funded small business programs have evolved and new needs have been identified. In accordance with the existing policy, staff has discussed various changes to the Policy with the Small Business Advisory Board at its May 28, 2008, and June 25, 2008, meetings and those changes were approved at the latter meeting. Discussions have also occurred with the staff, Executive Committee and Board of the Business Improvement District Council (BIDC) and the proposed changes were approved at their Board Meeting of June 26, 2008.

**FISCAL CONSIDERATIONS:**

The proposed changes will ensure a stable program allocation based on 80,000 small businesses registering with the City on an annual basis and will ensure adequate staffing levels for the provision of information and services and program oversight. The anticipated maximum program expense in FY2009 is \$1,600,000 which has already been budgeted in total in the City's Annual Appropriation Ordinance.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

In 1995, the City Council established the Small Business Enhancement Program (SBEP). The City Council Policy (900-15) for SBEP was adopted on June 8, 1999, by Resolution R-291758 to clarify SBEP's unique annual appropriation formula and to provide for accountability, efficiency, and flexibility in the administration of the program.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

In accordance with the existing policy, staff has discussed proposed changes to Council Policy 900-15 with the Small Business Advisory Board at numerous meetings. Extensive discussions have also occurred with the staff, Executive Committee and Board of the Business Improvement District Council.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

These changes are proposed to benefit small business within the City of San Diego and to further the economic revitalization of our commercial neighborhoods.

Kessler/Anderson

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:47 a.m. – 9:48 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-102: Agreement with Trussell Technologies, Inc., for Water Treatment Research Consulting Services.

(See Water Department's 8/21/2008, Executive Summary Sheet.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-444)            ADOPTED AS RESOLUTION R-304315

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a Consultant Agreement with Trussell Technologies Inc., for the purpose of consultant services related to water treatment research services for the Water Department;

Authorizing the expenditure of an amount not to exceed \$3,000,000 from Water Fund 41500, Organization 8310, for consulting services, of which \$500,000 will be available in FY09, solely and exclusively, for the purpose of providing funds for the abovementioned Agreement, its Amendments and related costs, provided that the City Auditor and 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 categorically exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15306.

**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:**

In December 2002, the City of San Diego (City) adopted the Long-Range Water Resources Plan (LRWRP) by Resolution R-2003-657. The LRWRP evaluated water supply alternatives for meeting the City's current and future water needs. The recommended approach for the LRWRP was to implement a strategy that enhances the City's water supply portfolio by developing more local supplies. The Water Department's research program provides water quality data and cost estimating information that allows for more accurate evaluation of local water supply options.

For the past seven years, the City had a contract with a consulting firm that supported the research program. This contract expired on July 31, 2008. During this contract period, 13 grant funded research projects were completed with a total of grant funds received approximately equaling the total of consultant fees at \$2.3 million. From the knowledge base developed, City staff can now accurately estimate water quality and costs factors associated with recycled water, groundwater, and seawater alternatives. Results of this research have been presented at professional conferences and in trade publication articles.

The City issued a Request for Proposals for a Water Treatment Research Consulting Services on February 28, 2008, in the San Diego Daily Transcript and on the City's website for bid and contract opportunities. Three (3) firms submitted proposals on April 14, 2008. On May 7, 2008, the firms were interviewed by a selection panel. Trussell Technologies was selected as the most qualified firm following a competitive selection and procurement process completed in accordance with City Council Policy 300-7, Consultant Services Selection, and the City's Administrative Regulation 25.60, Selection of Consultants for Work Requiring Licensed Architect and Engineering Skills and Other Related Professional Services.

This contract will focus on evaluation of approaches to develop local water supplies and associated technologies to reduce greenhouse gas emissions. Grant funding will be sought from local, State and Federal programs to address these two challenges of growing national importance.

Trussell Technologies has the expertise, experience and personnel necessary to provide the professional services. The City will pay Trussell Technologies for performance of all professional services rendered in accordance with the Agreement, in an amount not to exceed \$3,000,000.

**EQUAL OPPORTUNITY CONTRACTING:**

This Agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

**FISCAL CONSIDERATIONS:**

Funding for the first \$500,000 is available from the Water Department Fund 41500 FY09 operating budget, Dept. 760; Org. 8310. The remaining \$2,500,000 will be funded in the operating budget of future fiscal years, contingent upon the availability of funds.

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

In December 2002, the City of San Diego (City) adopted the Long-Range Water Resources Plan (LRWRP) by Resolution R-2003-657. Item was approved at Natural Resources and Culture on September 10, 2008.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

Research projects are conducted at City-owned water and wastewater facilities. The nature of the work is gathering information to make better engineering/planning decisions, rather than project construction. The research reports and results are shared with water industry professionals through conference presentations and peer reviewed journal articles, and locally through the San Diego County Water Authority and the Metropolitan Water District of Southern California.

**KEY STAKEHOLDERS:**

As an initiative to meet the goals of the Long-Range Water Resources Plan, the City water rate payers are stakeholders. In addition, City staff, regional water agencies and the national public water industry will gain useful knowledge to better evaluate their water supply and treatment alternatives.

Ruiz/Barrett

Aud. Cert. 2900259.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:47 a.m. – 9:48 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: Amendment No. 2 to Agreement with AKT LLP, for External Auditor for Bid to Goal and Pay Performance Programs. (Citywide.)

(See AKT's Reports from December 11, 2007 to January 22, 2008; and Administrative Services Department's October 2, 2008, memorandum and October 6, 2008, PowerPoint.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-423 Cor. Copy) RETURNED TO MAYOR'S OFFICE

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a Second Amendment to the Agreement with AKT Certified Public Accountants, LLP, for As-Needed External Auditing Services regarding the Bid-to-Goal and Pay-for-Performance Programs of the Water Department and the Metropolitan Wastewater Department, under the terms and conditions set forth in Amendment No. 2;

Authorizing the expenditure of an amount not to exceed \$170,000, solely and exclusively, to provide funds for the above Amendment No. 2, to be expended as follows: \$100,000 from Water Operating Fund No. 41500 and \$70,000 from Sewer Operating Fund No. 41509;

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

**AUDIT COMMITTEE'S RECOMMENDATION:**

On 10/6/2008, Audit voted 2 to 0 to forward the audit consultant contract with AKT to City Council with the recommendation that it be extended for one year. (Councilmembers Faulconer and Young voted yea. Councilmember Atkins not present.)

**SUPPORTING INFORMATION:**

The Metropolitan Wastewater (MWWD) and Water (WD) Departments engage in operational optimization and cost savings programs.

More specifically, both departments implement "Bid to Goal" (B2G) and "Pay for Performance" (P4P) Programs to create incentives for employees to participate in identifying and creating cost savings and ongoing operational improvements that benefit the rate payers. In part, these programs have benchmarks and goals that when met or exceeded will also result in incentive pay for employees.

The program requires independent verification that the goals, savings and targets were met to substantiate the incentive payments. In the early program years, the departments utilized City staff from the Audit Division of the Auditor & Comptroller's Department to verify the performance. The City Auditor is not able to provide the service at this time. In Fiscal Year 2007, the City entered into Agreement with the Accounting Firm of Grice, Lund and Tarkington, LLP (now doing business as AKT Certified Public Accountants) to verify both B2G and P4P results for the Fiscal Year 2006 program year (C-14164). The original contract award to AKT Certified Public Accountants (AKT) was for one year, with four option years. The City exercised Option 1 via Amendment No. 1 (R-303279).

In addition, both MWWD and WD Departments are currently combining services in order to streamline operations and remove redundancy. B2G and P4P are also being restructured in order to provide greater flexibility as the organization changes. At this time, WD has both B2G and P4P Programs and MWWD has consolidated their B2G and P4P into a B2G Program. This Amendment No. 2 revises the contract from a firm fixed price to an "as-needed" contract on a task order basis to allow for flexibility for modifications occurring within MWWD and WD Departments and the potential changes within the B2G and P4P Programs. This amendment also increases the current value by \$170,000, for a new total not-to-exceed contract amount of \$447,500, and extends the contract duration by one additional year.

FISCAL CONSIDERATIONS:

This action includes potentially five (5) audit components. In accordance with the proposal, the five audit components are to be completed on an "as-needed" task order basis for a total not-to-exceed amount of \$170,000. Funding is available in the amount of \$70,000 from the Sewer Operating Fund and in the amount of \$100,000 from the Water Operating Fund. This action is funded from sewer and water revenue rates only.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

R-303279. This action was discussed at the City Council Audit Committee on October 6, 2008. MWWD and WD Staff requested a contract extension for the three remaining years. The Audit Committee elected to recommend to the full City Council a one year extension.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

- Participating Employees and their respective employee groups, to include: San Diego Municipal Employees Association and AFSCME Local 127.
- AKT, LLP

Ferrier/Barrett

Aud. Certs. 2900257 and 2900260.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:47 a.m. – 9:48 a.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-104: State Water Resources Control Board Updating Resolution to Apply for Financial Assistance. (Citywide.)

(See Metropolitan Wastewater Department's July 29, 2008, Executive Summary Sheet.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-158) ADOPTED AS RESOLUTION R-304316

Authorizing the Mayor, or his designated representative, to sign and submit applications for loans and other financial assistance from the State Water Resources Control Board for design and construction of wastewater projects;

Authorizing the Mayor, or his designated representative, to certify compliance with all applicable state and federal statutory and regulatory requirements related to loans and other financial assistance from the State Water Resources Control Board;

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

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 9/10/2008, NR&C voted 3 to 0 to approve with direction that the Independent Budget Analyst provide analysis of City Council duties and obligations regarding application for financial assistance under the State Revolving Funds. (Councilmembers Peters, Faulconer, and Frye voted yea. Councilmember Atkins not present.)

**SUPPORTING INFORMATION:**

The City and the Metropolitan Wastewater Department (MWWD) have participated in the State Revolving Fund (SRF) Loan Program since 1999. The City has received approximately \$120 million in low interest loans under the SRF Program.

In order to continue to submit applications for low interest loans, the City is required to update Resolution No. R-288425, dated March 17, 1997, which authorized the City's representative to negotiate, execute and apply for loans under the SRF program for wastewater projects.

The new resolution requested by the State will update the language of the former resolution to comply with the State's requirements regarding authorization and certifications and will allow the City to continue to pursue low interest loans and other financial assistance not previously covered under this resolution for wastewater infrastructure projects. These administrative changes only address the authorization to apply for loans, and compliance with the basic programmatic and federal regulations such as environmental review, procurement and federal equal opportunity laws at execution of a loan agreement.

Any acceptance of SRF Loans or other funds will require City Council approval. This updated language merely enables MWWD to apply for such funding opportunities.

FISCAL CONSIDERATIONS:

Historically, the SRF loans have provided a significant savings in interest when compared to traditional bond financing.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Resolution No. R-288425, November 11, 1997. This action was reviewed and approved by the Natural Resources and Culture Committee on September 10, 2008, with direction that the Independent Budget Analyst provide analysis of City Council duties and obligations regarding application for financial assistance under the State Revolving Funds.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): N/A

Ferrier/Barrett

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:47 a.m. – 9:48 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: Facilities Benefit Assessment (FBA) Reimbursement Agreement with Pardee Homes for the Completed Portion of the Carmel Mountain Road Water Transmission Line Within the Carmel Valley Community (Project W-2, formerly 21A-5). (Carmel Valley Community Area. District 1.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-462)                      ADOPTED AS RESOLUTION R-304317

Authorizing the Mayor to execute, for and on behalf of the City, an Agreement with Pardee Homes, for reimbursement in the amount of \$1,570,839.53, plus interest, for the design and construction of the completed portion of the Carmel Mountain Road Water Transmission Line Project (Project), within the Carmel Valley Community, under the terms and conditions set forth in the Agreement;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$1,570,839.53, plus interest from Carmel Valley Facilities Benefit Assessment (FBA) Fund No. 79008 in CIP-70-983.0, consistent with the timing established in the most recently adopted Carmel Valley Public Facilities Financing Plan;

Authorizing the City Auditor and Comptroller to transfer appropriations and expenditures between Carmel Valley FBA Fund Nos. 79008 and 79002, as necessary to facilitate full and timely payment to Pardee Homes;

Declaring that this activity is not subject to CEQA pursuant to State Guidelines Section 15060(c)(3).

**STAFF SUPPORTING INFORMATION:**

Vesting tentative map conditions and a water study approved by the City of San Diego required that Pardee Homes install water transmission lines within the Carmel Valley Community, south of SR-56. As the water transmission line provide benefit to the Carmel Valley community, reimbursements of Waterline Project costs are appropriate for FBA reimbursement. The waterline has and is being constructed in two phases consistent with the overlying Carmel Mountain Road Construction Phasing.

Pardee Homes has completed the design and construction of a portion of the Carmel Mountain Road-Waterline within the Carmel Valley Community. This Project is identified as W-2 (formerly 21A-5) in the adopted Fiscal Year 2009 Carmel Valley Public Facilities Financing Plan and Facilities Benefit Assessment.

FISCAL CONSIDERATIONS:

The total estimated Project cost for the completed portion of the Water Transmission Line is \$1,570,839.53 plus interest, and there are sufficient funds in Carmel Valley FBA Funds 79002 and 79008 to cover the reimbursement to Pardee Homes. FBA Funds 79002 and 79008 are in the process of being combined and during the interim period of Fiscal Years 2009 and 2010 both funds can be utilized for payment of Carmel Valley Projects. This Project will be funded through Facilities Benefit Assessments (FBAs), with no impact to the General Fund.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On May 27, 2008, the City Council of the City of San Diego adopted the updated Carmel Valley Public Facilities Financing Plan and Facilities Benefit Assessment for Fiscal Year 2009. The financing plan identifies and includes the Carmel Mountain Road Water Transmission Line Project to be funded with FBA funds as Project W-2 (formerly 21A-5).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders are the Carmel Valley Community and Pardee Homes.

Gabriel/Anderson

Aud. Cert. 2900291.

Staff: Megan Sheffield - (619) 533-3672  
Jana L. Garmo - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:47 a.m. – 9:48 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: Facilities Benefit Assessment (FBA) with Pardee Homes for the Uncompleted Portion of the Carmel Mountain Road Water Transmission Line Within the Carmel Valley Community (Project W-2, formerly 21A-5). (Carmel Valley Community Area. District 1.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-463)                      ADOPTED AS RESOLUTION R-304318

Authorizing the Mayor to execute, for and on behalf of the City, an Agreement with Pardee Homes, for reimbursement in the amount of \$799,091 plus interest, for the design and construction of the uncompleted portion of the Carmel Mountain Road Water Transmission Line Project (Project), within the Carmel Valley Community, under the terms and conditions set forth in the Agreement;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$799,091 plus interest, from Carmel Valley FBA Fund No. 79008 in CIP-70-983.0, consistent with the timing established in the most recently adopted Carmel Valley Public Facilities Financing Plan;

Authorizing the City Auditor and Comptroller to transfer appropriations and expenditures between Carmel Valley FBA Fund Nos. 79008 and 79002, as necessary to facilitate full and timely payment to Pardee Homes;

Declaring that this activity is not subject to CEQA pursuant to State Guidelines Section 15060(c)(3).

**STAFF SUPPORTING INFORMATION:**

Vesting tentative map conditions and a water study approved by the City of San Diego required that Pardee Homes install water transmission lines within the Carmel Valley Community, south of SR-56. As the water transmission lines provide benefit to the Carmel Valley Community, reimbursements of Waterline Project costs are appropriate for FBA reimbursement. The waterline has and is being constructed in two phases consistent with the overlying Carmel Mountain Road construction phasing.

Pardee Homes has agreed to complete the design and construction of the uncompleted portion of the Carmel Mountain Road Water Transmission Line-within the Carmel Valley Community.

This Project is identified as W-2 (formerly 21A-5) in the adopted Fiscal Year 2009 Carmel Valley Public Facilities Financing Plan and Facilities Benefit Assessment.

FISCAL CONSIDERATIONS:

The total estimated Project cost for the uncompleted portion of the Water Transmission Line is \$799,091 plus interest, and there are sufficient funds in Carmel Valley FBA Funds 79002 and 79008, to cover the reimbursement to Pardee Homes. FBA Funds 79002 and 79008 are in the process of being combined and during the interim period of Fiscal Years 2009 and 2010 both funds can be utilized for payment of Carmel Valley Projects. This project will be funded through Facilities Benefit Assessments (FBAs), with no impact to the General Fund.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On May 27, 2008, the City Council of the City of San Diego adopted the updated Carmel Valley Public Facilities Financing Plan and Facilities Benefit Assessment for Fiscal Year 2009. The financing plan identifies and includes the Carmel Mountain Road Water Transmission Line project to be funded with FBA funds as Project W-2 (formerly 21A-5).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders are the Carmel Valley Community and Pardee Homes.

Gabriel/Anderson

Aud. Cert. 2900292.

Staff: Megan Sheffield - (619) 533-3672  
Jana L. Garmo - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:47 a.m. – 9:48 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 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*. (District 8.)

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-441) 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: 9:47 a.m. – 9:48 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.

Mayor Vetoed on November 13, 2008. To be ReDocketed within 30 days.

\* ITEM-108: Conflict of Interest Code for the Financial Management Department. (Citywide.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-214) ADOPTED AS RESOLUTION R-304320

Adopting a Conflict of Interest Code for the Financial Management Department, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the Financial Management Department as adopted, be placed on file in the Office of the City Clerk;

Declaring that the persons whose positions are designated in the revised Conflict of Interest Code for the Financial Management Department shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements, and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the Financial Management Department becomes effective upon the date of adoption of this resolution.

**STAFF SUPPORTING INFORMATION:**

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-303718 adopted on May 27, 2008.

The Financial Management Department code has been revised to include a Program Manager, Senior Management Analyst for Personnel Expense Budgets, and a Supervising Management Analyst for Budget Development, which had not been previously designated; the removal of a Deputy Director position previously designated but now more appropriately included in other City department's Conflict of Interest Codes, and to update the required filing categories for each designated position.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): N/A

Tirandazi/Goldstone

Staff: Cynthia Hilliard - (619) 236-7315  
Sharon B. Spivak - Deputy City Attorney

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

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 9:47 a.m. – 9:48 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: Conflict of Interest Code for the Library Department. (Citywide.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-217) ADOPTED AS RESOLUTION R-304321

Adopting a Conflict of Interest Code for the Library Department, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the Library Department as adopted, be placed on file in the Office of the City Clerk;

Declaring that the persons whose positions are designated in the revised Conflict of Interest Code for the Library Department shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements, and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the Library Department becomes effective upon the date of adoption of this resolution.

**STAFF SUPPORTING INFORMATION:**

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-303718 adopted on May 27, 2008. The Library Department code has been revised to: include new positions which must be designated and remove positions that have been abolished.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): N/A

Barrow

Staff: Traci Wagnon - (619) 236-5842  
Sharon B. Spivak - Deputy City Attorney

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

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 9:47 a.m. – 9:48 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: Conflict of Interest Code for the Office of Ethics and Integrity. (Citywide.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-213) ADOPTED AS RESOLUTION R-304322

Adopting a Conflict of Interest Code for the Office of Ethics and Integrity, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the Office of Ethics and Integrity as adopted, be placed on file in the Office of the City Clerk;

Declaring that the persons whose positions are designated in the revised Conflict of Interest Code for the Office of Ethics and Integrity shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements, and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the Office of Ethics and Integrity becomes effective upon the date of adoption of this resolution.

**STAFF SUPPORTING INFORMATION:**

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict-of interest codes as reflected in City Council Resolution No. R-303718, adopted on May 27, 2008. The Office of Ethics and Integrity code has been revised to include designated filer positions which were not previously part of the Office of Ethics and Integrity and to remove positions which no longer exist in the Office.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable): N/A

SawyerKnoll

Staff: Music McCall - (619) 236-6082  
Sharon B. Spivak - Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:47 a.m. – 9:48 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: Conflict of Interest Code for the Labor Relations Department. (Citywide.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-216)            ADOPTED AS RESOLUTION R-304323

Adopting a Conflict of Interest Code for the Labor Relations Department, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the Labor Relations Department as adopted, be placed on file in the Office of the City Clerk;

Declaring that the persons whose positions are designated in the revised Conflict of Interest Code for the Labor Relations Department shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements, and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the Labor Relations Department becomes effective upon the date of adoption of this resolution.

**STAFF SUPPORTING INFORMATION:**

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-303718 adopted on May 27, 2008. The Labor Relations Department code has been revised to include new positions which had not been previously designated and to update the required filing categories for each designated position.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): N/A

Chadwick

Staff: Pam Holmberg- (619) 236-6313  
Sharon B. Spivak - Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:47 a.m. – 9:48 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: Conflict of Interest Code for the City Planning and Community Investment Department. (Citywide.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-220) ADOPTED AS RESOLUTION R-304324

Adopting a Conflict of Interest Code for the City Planning and Community Investment Department, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the City Planning and Community Investment Department as adopted, be placed on file in the Office of the City Clerk;

Declaring that the persons whose positions are designated in the revised Conflict of Interest Code for the City Planning and Community Investment Department shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements, and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the City Planning and Community Investment Department becomes effective upon the date of adoption of this resolution.

**STAFF SUPPORTING INFORMATION:**

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-303718 adopted on May 20, 2008.

The City Planning & Community Investment Department code has been revised as follows:

**Appendix A - Position(s) Removed:** General Plan Manager. Now that the General Plan has been adopted this title does not exist.

**Appendix A - Position(s) Added:** Project Officer II and Senior Planner for Historical Resources.

**Appendix B - Revisions/Additions:** None.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:** None.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** N/A

**KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):** N/A

Murray/Anderson

Staff: Beth Murray - (619) 236-6720  
Sharon B. Spivak - Deputy City Attorney

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

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 9:47 a.m. – 9:48 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: Conflict of Interest Code for the San Diego City Employees' Retirement System.  
(Citywide.)

**SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-224)                      ADOPTED AS RESOLUTION R-304325

Adopting a Conflict of Interest Code for the San Diego City Employees' Retirement System, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the San Diego City Employees' Retirement System as adopted, be placed on file in the Office of the City Clerk;

Declaring that the persons whose positions are designated in the revised Conflict of Interest Code for the San Diego City Employees' Retirement System shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements, and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the San Diego City Employees' Retirement System becomes effective upon the date of adoption of this resolution.

**STAFF SUPPORTING INFORMATION:**

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-303718 adopted on May 20, 2008.

The San Diego City Employees' Retirement System code has been revised to: include newly created positions and positions that were not previously designated, remove positions previously designated that no longer exist or for which the duties have now changed, and to specify the required filing categories for each designated position.

**FISCAL CONSIDERATIONS:** None.

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

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** N/A

**KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):** N/A

Wescoe

Staff: Roxanne Story Parks - (619) 525-3644  
Sharon B. Spivak - Deputy City Attorney

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

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 9:47 a.m. – 9:48 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: Howard Brackney Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-454)            ADOPTED AS RESOLUTION R-304326

Congratulating Howard Brackney on his 100<sup>th</sup> birthday;

Proclaiming October 10, 2008, to be "Howard Brackney Day" in the City of San Diego.

FILE LOCATION:            AGENDA

COUNCIL ACTION:            (Time duration: 9:47 a.m. – 9:48 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: Kevin Tilden Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-405)            ADOPTED AS RESOLUTION R-304327

Sincerely thanking Kevin Tilden for his dedication that has distinguished the City of San Diego as a top destination City;

Proclaiming September 26, 2008, as "Kevin Tilden Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:47 a.m. – 9:48 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: Corri M. Planck Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-455) ADOPTED AS RESOLUTIO R-304328

Commending and thanking Corri M. Planck for the contributions she has made to the City of San Diego's LGBT community and wishing her a very happy 40<sup>th</sup> birthday;

Proclaiming September 29, 2008, to be "Corri M. Planck Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:47 a.m. – 9:48 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: Negotiated Settlement of Language and Remedy Contained in City-MEA Memorandum of Understanding, Article 22, Section 2.B.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-499) ADOPTED AS RESOLUTION R-304329

Approving and ratifying the negotiated Settlement Agreement relating to the language and remedy contained in Article 22, Section 2.B of the Memorandum of Understanding effective July 1, 2005 through June 30, 2008, between the City of San Diego and the San Diego Municipal Employees' Association;

Directing staff to prepare necessary changes to the Employee Retirement Contribution Offset Rates for MEA-represented Groups in Section 14 of the FY09 Salary Ordinance for future City Council consideration, and any other changes and actions necessary to implement the terms of the negotiated agreement.

**STAFF SUPPORTING INFORMATION:**

On April 8, 2008, MEA filed a grievance, amended on July 8, 2008, alleging a violation of Article 22, Subsection B of the Memorandum of Understanding (MOU) in effect from July 1, 2005 through June 30, 2008. This provision of the MOU is entitled "Use of Negotiated Employee Pension Contribution Increases".

The City and MEA met and conferred in good faith effort to resolve this grievance, and tentatively agreed to the terms enumerated in the Grievance Settlement Agreement, which include:

- City retains and utilizes Fiscal Year 2006 funds and applies funds to replace Tobacco Settlement income and/or to transfer unused portion to SDCERS;
- City retains and utilizes Fiscal Year 2007 funds and applies funds to replace Tobacco Settlement income and/or to transfer unused portion to SDCERS;
- City returns to any active employee his/her actual Fiscal Year 2008 pension contribution (while working in an MEA represented position) in an amount equivalent to 3% of their pensionable salary;
- City retains and utilizes Fiscal Year 2008 funds equivalent to 1% of employees' pensionable salary, applying them to replace Tobacco Settlement income and/or to transfer unused portion to SDCERS;

- All funds collected by the City in Fiscal Year 2009 through pay period ending September 19, 2008, are retained and utilized by the City to replace Tobacco Settlement income, to support some other leveraged mechanism, and/or to transfer to SDCERS;
- City retains all interest earned on these funds during Fiscal Years 2008 and 2009;
- Beginning with the September 20, 2008, pay period, the employees' pension contribution will be decreased by 2%, thus increasing the City's pension contribution on behalf of each MEA represented general member from 1.4% of pensionable salary to 3.4% and MEA represented safety member from 3.3% to 5.3%;
- Beginning with the September 20, 2008, pay period, the remaining 1% pension contribution from the original 3% may be used by the City for any lawful purpose and will no longer be restricted exclusively for payment to support a leveraged mechanism to reduce the SDCERS UAAL.

FISCAL CONSIDERATIONS:

- Settlement saves City approximately \$7.6 million as compared to having to return Fiscal Years 2007, 2008, and 2009 moneys.
- Funds that were earmarked for the benefit of funding the Pension System now go to employees - approx. \$4.3 million.
- Frees up \$2.2 million annually.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Current employees who were employed within MEA bargaining units during Fiscal Year 2008, employees currently employed within MEA bargaining units, and MEA.

Chadwick/Goldstone

Staff: Scott Chadwick - (619) 236-5587  
Michael Aguirre - City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:52 a.m. – 11:01 a.m.)

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

ITEM-331: Authorization to Sell City-Owned Excess Real Property Located at Lot 10 in Block 18 of Del Mar Heights; and Approving Broker Commission. (Del Mar Heights Community Area. District 1.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-436) RETURNED TO MAYOR

Declaring that certain real property (Property) owned in fee by the City, located at Lot 10 in Block 18 of Del Mar Heights, and more particularly described in the Property Information Sheet, is excess City property and may be sold;

Declaring the Property may only be sold for a price equal to or greater than Five Hundred Thousand Dollars (\$500,000);

Declaring the Mayor, or his designee, shall have the authorization for one year;

Authorizing and directing the Mayor, or his designee, to sell the property through negotiation, public auction, sealed bids, or any combination of such methods, in his discretion;

Authorizing and directing the Mayor, or his designee, to execute and deliver, on behalf of the City, a Purchase and Sale Agreement, grant deed, and all other agreements and documents necessary and on terms and conditions deemed by the Mayor, or his designee, to be reasonable and in the best interests of the City to consummate the sale;

Authorizing and directing the City Comptroller to accept the proceeds of the sale of the Property, net of brokerage commissions and other costs of selling the Property, and deposit them into the Capital Outlay Fund 302453;

Declaring that if after attempting to sell the Property at the minimum price specified herein, the Mayor, or his designee, determines that the Property cannot be sold at or above such price, the Mayor shall seek review and additional direction from the Council as to the disposition of the Property.

**STAFF SUPPORTING INFORMATION:**

As part of an overall portfolio management plan for the City's Real Estate Assets, the Mayor's staff is reviewing the City's property inventory to determine which properties are no longer needed and whose disposition will provide a greater public benefit. A City-owned property may be designated for disposition if:

- The property is not currently used by a City department or supports a municipal function.
- The property is vacant and has no foreseeable use by the City.
- The property is a non-performing or under-performing asset and greater value can be generated by its sale.

The referenced property has been analyzed and determined by the Mayor's staff to be excess to City needs and would best serve the City and its citizens if sold. The Property Information Summary Package contains all pertinent information about the property including its value as determined by a current appraisal and the reason for recommending its sale. The benefits to the City of disposing of these surplus properties are as follows:

- The City will be relieved of potential liabilities and the cost of maintaining property that does not generate income or provide public benefit.
- Property tax increment will be created by returning the properties to the tax rolls.
- Stimulation of the economy by providing opportunities for private sector investment.
- Generation of revenue for the Capital Outlay Fund.

Attachment "A" is a legal opinion from the City Attorney stating that by Council Policy and Municipal Code, the Mayor must take every property intended for sale to Council, justify each sale, and seek direction as to how the property will be sold. Because all questions regarding the right to sell and manner of sale will be predetermined by an enabling resolution, the proposed process for the sale of the City's properties does not conflict with the Municipal Code and the City Charter.

A Request for Proposal (RFP) for residential brokerage services was issued through the City's Purchasing Department. Each proposal received was rated on its technical merit by an evaluation committee. The technical scores were then compared with the pricing proposal to select the brokerage firm to market this property.

This action requests approval of the best value proposal which do reflect, in this case, the lowest commission percentage that was received through the bid process described above for the property. Realty Executives was selected as low bidder at 6%.

FISCAL CONSIDERATIONS:

All proceeds from the sale of the properties, net of costs related to their sale, will be deposited in the Capital Outlay Fund as per City Charter Article VII. The total proceeds from these sales are estimated to be \$500,000.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders would be the City of San Diego which will benefit by: receipt of the sale proceeds; relief from future liability and maintenance expenses associated with the ownership of this property; and additional property taxes from the return of these properties to the tax roles.

Barwick/Anderson

Staff: B. Lane MacKenzie - (619) 236-6050  
Todd Bradley - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:48 a.m. – 9:48 a.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR. 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-332: Housing Enhancement Loan Program (HELP) in the Linda Vista Redevelopment Project Area. (Linda Vista Community Area. District 6.)

(See Redevelopment Agency Report RA-08-28/RTC-08-155 and memorandum from Beryl Bailey Rayford dated 10/8/2008.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-434)                      ADOPTED AS RESOLUTION R-304331

Making certain Findings of Benefit relating to the use of Low- and Moderate-Income Housing Tax Increment (Set-Aside) Funds outside of the Linda Vista Redevelopment Project Area for the Redevelopment Housing Enhancement Loan Program;

Authorizing the Linda Vista Redevelopment Project Area (Project Area) Set-Aside Funds in the amount not to exceed \$18,400 and the carry-over funds in the approximate amount of \$172,101, for a total of \$190,501, to be expended outside the Project Area pursuant to the newly revised "Linda Vista Redevelopment Housing Enhancement Loan Program" (Linda Vista HELP Program) within the Linda Vista Community Planning Area.

**STAFF SUPPORTING INFORMATION:**

The revised Linda Vista Redevelopment Project Area Housing Enhancement Loan Program (HELP) will provide forgivable loans in the amount of \$20,000 to assist low- and moderate-income households offset the cost of qualified improvements. The loans will continue to be used to address interior and exterior conditions of properties to repair health and safety hazards and to rehabilitate, repair and install improvements, including improvements not eligible in existing rehabilitation programs such as fencing, sidewalks and landscaping. The loans may also be used for qualifying energy and water conserving improvements. The Agency would enter into an Amended Agreement with the Housing Commission to continue to administer and provide outreach services for the program.

FISCAL CONSIDERATIONS:

The FY 09 Agency budget includes \$18,400 in Linda Vista Redevelopment Project Area low- and moderate-income housing funds specifically dedicated to the HELP Program.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

There is no Linda Vista Redevelopment Project Area Committee. On April 28, 2008, the Linda Vista Community Planning Committee was provided with an informational report regarding the Linda Vista HELP Program and the revisions were well received.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Owner-occupants of eligible properties within the Linda Vista Community Planning Area whose gross household income is not greater than 100% of the Area Median Income will benefit from the program.

Weinrick/Anderson

Staff: Michele St. Bernard - (619) 236-6531.  
Kendall D. Berkey - Deputy City Attorney

**NOTE:** See the Special Redevelopment Agency Agenda and the Housing Authority Agenda of October 28, 2008, for companion items.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:20 p.m.)

MOTION BY FRYE 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-333: Owner Participation Agreement (OPA) with Wakeland Village Green Apartments LP – Crossroads Redevelopment Project Area. (Mid-City Community (Eastern) Area. District 7.)

(See Redevelopment Agency Report RA-08-27, RTC-08-145.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-465 Cor. Copy)      ADOPTED AS RESOLUTION R-304332

Finding that the use of a line of credit from the North Bay Redevelopment Project Area and the City Heights Redevelopment Project Area, as well as low-moderate income tax increment funds from the College Grove Redevelopment Project Area to assist in the Redevelopment of the Village Green Apartments in the Crossroads Redevelopment Project Area, will yield benefits to the respective Project areas pursuant to California Health and Safety Code Section 33334.2(g).

**STAFF SUPPORTING INFORMATION:**

The proposed Village Green Apartments Owner Participation Agreement will provide 79 two-bedroom apartments and 14 three-bedroom apartments affordable to households at or below 50%-60% AMI. It will also include one manager's residence, one office, upgraded laundry facilities, an improved outdoor play area for children, and an enlarged, remodeled community room with solar power.

Other physical improvements will include landscaping, site drainage, walkway repairs, kitchen and bathroom remodeling, roofing, energy efficient door and window replacements, floor coverings, interior and exterior painting, water-efficient plumbing fixtures, retrofitting of five percent of the units for accessibility, an additional five percent retrofitted for sight and hearing impairments, and enhanced security systems based on input from the Police Department. Parking is provided on-site in 103 spaces which will be resurfaced.

Due to the project income required to support the development, it is proposed that 60 units will be assessed CRL rents (Redevelopment units) and the remaining 32 units will be assessed tax credit rents (Housing Commission units).

The Redevelopment Agency will record 55-year rent restrictions against 10 units affordable to households with annual incomes of 50% or less of Area Median Income (AMI) and 50 units affordable to households with annual incomes of 60% or less AMI. The Redevelopment Agency will count 60 of the 92 units towards affordable housing production requirements.

FISCAL CONSIDERATIONS:

Proposed permanent financing would include a second position \$5,788,475 Redevelopment Agency residual receipts loan consisting of: \$2,391,475 from Crossroads, \$397,000 from College Grove, \$1,500,000 from City Heights and \$1,500,000 from North Bay.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Crossroads Project Area Committee (PAC) voted to recommend the Agency approve the project and use project area housing funds. The vote was 8-4-1 on August 28, 2008.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The seller of the property is the Odom Family Trust. Stakeholders include Wakeland Housing and Development Corporation as the nonprofit development. The Village Green Apartments are located within the Rolando Neighborhood which is within the Eastern Area of the Mid-City Communities Plan.

Weinrick/Anderson

Aud. Cert. 2900294.

Staff: Tracy Reed - (619) 236-6543  
Alex W. Sachs – Deputy City Attorney

**NOTE:** See the Special Redevelopment Agency Agenda of Tuesday, October 28, 2008 for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:30 p.m. – 2:31 p.m.)

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

ITEM-334: *Save Our Heritage Organization (SOHO) v. City of San Diego, et al.* Settlement Agreement. (District 2.)

(See Redevelopment Agency Report RA-08-30/RTC-08-158.)

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-457)            ADOPTED AS RESOLUTION R-304333

Approving the Settlement Agreement in the Case of *Save Our Heritage Organization (SOHO) v. City of San Diego, et al.*;

Authorizing the Mayor of the City of San Diego, or his authorized designee, to execute said Settlement Agreement on behalf of the City;

Authorizing the Council President, or his authorized designee, to execute said Settlement Agreement on behalf of the San Diego City Council;

Declaring that entering into this Settlement Agreement is not a "project" and is therefore exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

**SUPPORTING INFORMATION:**

On May 10, 2006, a citizen group known as Save Our Heritage Organization ("SOHO") filed a petition for writ of mandate challenging the City's compliance with the California Environmental Quality Act ("CEQA") in its February 28, 2006, approvals of the Downtown Community Plan ("DCP") and subsequently implementing ordinances.<sup>2</sup> SOHO claims in its petition that the Centre City Development Corporation ("CCDC") and the City allegedly violated CEQA in several respects, all primarily relating to the assessment of historical and cultural resources in the Environmental Impact Report ("EIR") for the DCP: (1) by allegedly failing to include an adequate analysis of historical, cultural, and archaeological resources; (2) for allegedly failing to adequately identify and consider feasible mitigation measures and a reasonable range of alternatives; (3) by adopting a mitigation monitoring and reporting program ("MMRP") that was allegedly inadequate and incomplete; and (4) by adopting findings that were allegedly unsupported by substantial evidence.

SOHO further alleged that post-certification changes relating to historical and cultural resources were made to the EIR that were not carried over into the Community Plan and implementing ordinances.

Through the course of settlement discussions over the last two and a half years, the parties have worked out a set of amendments and revisions to the DCP, Centre City Planned Development Ordinance ("PDO"), and MMRP that would settle SOHO's concerns without requiring the rescission of the DCP or the recirculation of the EIR. The changes are aimed at clarifying and strengthening protections for historical and cultural resources within the Downtown Community Plan area and making all of the relevant policies, ordinances, and mitigation measures consistent with each other.

The Settlement Agreement provides that CCDC and the City shall use their best efforts to enact all of the amendments described in the Settlement Agreement within nine (9) months of the effective date of the Agreement.

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<sup>1</sup> A second CEQA suit was filed by Save Our Forests and Ranchlands ("SOFAR") against the City challenging the same approvals. That litigation was settled through an agreement approved by the City Council and Redevelopment Agency on April 10, 2007 and fully executed on May 15, 2007.

The Agreement also cautions that no guarantees have been made regarding the exercise of the City's legislative discretion and exercise of its police power. If the amendments are not enacted within nine months, however, SOHO has the right to resume the litigation and continue with the prosecution of its case.

If CCDC and the City enact all of the amendments as described in the Settlement Agreement and payment is made to SOHO of its attorneys' fees in the amount of \$56,364, SOHO will promptly execute and file a notice of dismissal of its petition with prejudice, meaning that SOHO may not refile a suit alleging the same claims against the DCP EIR.

FISCAL CONSIDERATIONS:

Funds for all costs to be incurred in connection with the implementation of this Settlement Agreement on behalf of all respondents and defendants are available and will be paid for by CCDC.

PREVIOUS COUNCIL AND REDEVELOPMENT AGENCY ACTION:

The City Council and Redevelopment Agency Board have been previously briefed on this matter in Closed Session.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None with this Settlement Agreement, but prior to the Council's action on October 30, 2007, CCDC staff held public workshops for the proposed amendments before the Centre City Advisory Committee and its subcommittees, the CCDC Board and its subcommittees and the Planning Commission.

Carlyle

**NOTE:** See the Special Redevelopment Agency Agenda of October 28, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:09 p.m. – 2:10 p.m.)

MOTION BY HUESO TO ADOPT. 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-335: Housing Enhancement Loan Program (HELP) in the Crossroads Redevelopment Project Area. (College Area and Mid-City [City Heights and Eastern] Community Areas. Districts 4 and 7.)

(See Redevelopment Agency Report No. RA-08-24/RTC-08-141.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-269) ADOPTED AS RESOLUTION R-304334

Making the Findings of Benefit to the Crossroads Redevelopment Project Area (Project Area) as more fully set forth in Attachment "A";

Authorizing the Project Area Set-Aside Funds in the amount of \$250,000 and the carry-over funds in the approximate amount of \$195,472, to be expended pursuant to the newly revised "Crossroads Redevelopment Housing Enhancement Loan

Program” (Crossroads HELP Program) implemented within the Project Area and outside the Project Area within census tracts 27.03, 27.09, and 27.10.

**STAFF SUPPORTING INFORMATION:**

The revised Crossroads Redevelopment Project Area Housing Enhancement Loan Program (HELP) will continue to provide forgivable loans in the amount of \$20,000 to assist low- and moderate-income households offset the cost of qualified improvements. The loans will continue to be used to address interior and exterior conditions of properties to repair health and safety hazards and to rehabilitate, repair, and install improvements, including improvements not eligible in existing rehabilitation programs such as fencing, sidewalks, and landscaping. The loans may be increased up to an additional \$5,000 for qualifying energy and water conserving improvements, for an overall loan maximum amount of up to \$25,000.

The Agency would enter into an Amended Agreement with the Housing Commission to continue to administer and provide outreach services for the program.

**FISCAL CONSIDERATIONS:**

The FY 09 Agency budget includes \$250,000 in Crossroads Redevelopment Project Area low- and moderate-income housing funds specifically dedicated to the HELP Program.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

On April 24, 2008, the Crossroads Redevelopment Project Area Committee voted to recommend several revisions to the Housing Enhancement Loan Program Guidelines. On May 22, 2008, the Crossroads Redevelopment Project Area Committee voted to recommend the expansion of the Crossroads HELP Program to census tracts 27.03, 27.09, and 27.10.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):**

Owner-occupants of one- and two- unit properties within the Crossroads HELP Area whose gross household income is not greater than 100% of the Area Median Income.

Weinrick/Anderson

Staff: Michele St. Bernard - (619) 236-6531  
Kendall D. Berkey - Deputy City Attorney

**NOTE:** See the Special Redevelopment Agency Agenda and Housing Authority Agenda of October 28, 2008, for companion items.

FILE LOCATION: MEET

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

MOTION BY FRYE 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-336: 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.

**STAFF'S RECOMMENDATION:**

Take the following actions:

Subitem-A: (R-2009-000) CONTINUED TO TUESDAY,  
DECEMBER 9, 2008

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-2009-000) CONTINUED TO TUESDAY,  
DECEMBER 9, 2008

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-2009-000) CONTINUED TO TUESDAY,  
DECEMBER 9, 2008

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-2009-000) CONTINUED TO TUESDAY,  
DECEMBER 9, 2008

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.

000351

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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/IF

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: 2:08 p.m. – 2:08 p.m.)

MOTION BY MAIENSCHIN TO CONTINUE TO TUESDAY, DECEMBER 9, 2008, FOR FURTHER REVIEW. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-337: 777 Beech – Centre City Development Permit 2006-19, Map Waiver 349046, and Agreement Affecting Real Property to Allow the Construction of a Mixed-Use Project along the South Side of Beech Street Between Seventh and Eight Avenues in the Downtown Community Plan Area/Cortez Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment Project. (District 2.)

(See Centre City Development Corporation's Report No. CCDC-08-32/  
CCDC-08-19.)

**CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:**

Take the following actions:

Subitem-A: (R-2009-557)                      ADOPTED WITH DIRECTION AS  
RESOLUTION R-304335

Adopting the following findings with respect to Centre City Development Permit 2006-19 and Map Waiver No. 349046:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan Land Development Code Section 125.0440(a) and State Map Act Sections 66473.5, 66474(a), and 66474(b);
2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code Land Development Code Section 125.0440(b).
3. The site is physically suitable for the type and density of development Land Development Code Section 125.0440(c) and State Map Act Sections 66474(c) and 66474(d);
4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injuries to fish or wildlife or their habitat Land Development Code Section 125.0440(d) and State Map Act Section 66474(e);
5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare Land Development Code Section 125.0440(e) and State Map Act Section 66474(f);

6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision Land Development Code Section 125.0440(f) and State Map Act Section 66474(g);
7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities Land Development Code Section 125.0440(g) and State Map Act Section 66473.1;
8. 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 Land Development Code Section 125.0440(h) and State Map Act Section 66412.3;
9. The proposed subdivision of land complies with requirements of the Subdivision Map Act and the Land Development Code as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of the Subdivision Map Act or the Land Development Code enacted pursuant thereto Land Development Code Section 125.0122 and State Map Act Section 66428(b);
10. That the project is consistent with the Downtown Community Plan and Centre City Planned District Ordinance;
11. That said Findings are supported by the minutes, drawings, maps, and exhibits, all of which are herein incorporated by reference;

Subitem-B: (R-2009-558)

ADOPTED WITH DIRECTION AS  
RESOLUTION R-304337

Approving Centre City Development Permit 2006-19 and Map Waiver 349046 are hereby approved, subject to and under the terms and conditions set forth in Attachments A and B, incorporated herein and made a part of this Resolution;

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

**SUPPORTING INFORMATION:**

The applicants are proposing to construct a 12-13 story (average height 144 feet) mixed-use project on the 20,000 square-foot site along the south side of Beech Street between Seventh and Eighth Avenues in the Cortez Hill neighborhood of Downtown. The project would contain 78 residential condominiums, approximately 14,746 square-feet of retail/commercial space, and 144 parking spaces.

**FISCAL CONSIDERATIONS:** None.

**CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:**

On October 17, 2007, the Centre City Development Corporation ("Corporation") voted 4-0 to recommend approval of the project.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

On October 10, 2007, the Centre City Advisory Committee (CCAC) voted 19-1 to recommend overall Project approval to the Agency/Council. On November 14, 2007, the CCAC also voted 18-0 to recommend approval of Map Waiver 349046, as this element of the project had not been presented the month before.

On September 27, 2007, the Historical Resources Board (HRB) voted 5-1 to find that the current project design meets the U. S. Secretary of the Interior's Standards for new construction adjacent to the historic El Cortez Hotel building.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

The key stakeholders of the project are Peter Janopaul of JSD1, LLC and JSD2, LLC, and Taal Safdie of Safdie Rabines Architects.

Richter/Kaiser

**NOTE:** This is a Joint Public Hearing with the Redevelopment Agency. See the Special Redevelopment Agency Agenda of October 28, 2008, for a companion item.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 5:00 p.m. – 5:01 p.m.)

Testimony in opposition by Andrew Berman, Everett DeLano, Rita Collier, Pamela Coker, Dominique Cano-Stocco, Barry Bruins and Joy Sunyata.

Testimony in favor by Michael Zucchet.

MOTION BY FAULCONER TO ADOPT STAFF'S RECOMMENDATION WITH DIRECTION TO INCLUDE REPLACEMENT PARKING FOR RESIDENTS OF THE EL CORTEZ DURING CONSTRUCTION OF THIS PROJECT WITHIN A 3-BLOCK RADIUS OR PROVIDE 24-HOUR VALET PARKING; AND TO REFER THE HISTORICAL RESOURCES BOARD ROLE TO THE LAND USE AND HOUSING COMMITTEE WITH THE INCLUSION OF THE INDEPENDENT BUDGET ANALYST AND THE CITY ATTORNEY FOR DISCUSSION. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-338: Citywide Parking Restrictions for Oversized, Non-Motorized, and Recreational Vehicles.

(See memorandum from Patti Boekamp, Stacey LoMedico, Mary Cornicelli, and Gail Granewich, dated 4/4/2008.)

(Continued from the meeting of September 15, 2008, Item 200, at Councilmember Faulconer's request, for further review.)

**CITY ATTORNEY'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2009-60)                      RETURNED TO MAYOR

Introduction of an Ordinance amending Chapter 8 of the San Diego Municipal Code by renaming Article 1; by repealing Sections 81.01 through 81.01.30; by adding Division 1 titled "Definitions, Authority, and Enforcement" and adding Sections 81.0101, 81.0102, and 81.0103; by renumbering Sections 81.02, 81.03, 81.04, 81.05, 81.06, 81.07, 81.07.1, 81.08, 81.09, 81.10, and 81.11; amending Chapter 8, Article 6 by renumbering Sections 86.01, 86.02, 86.02.1, 86.02.2, 86.03, 86.03.1, 86.04, 86.05, 86.06, 86.07, 86.08, 86.08.1, 86.09, 86.09.1, 86.09.2,

and 86.09.3; by amending and renumbering Section 86.09.04; by renumbering Sections 86.09.05, 86.09.06, 86.10, 86.10.2, and 86.10.3; by amending and renumbering Section 86.10.4; by renumbering Sections 86.11; 86.12, 86.13, 86.14, 86.15, 86.16, 86.17, 86.18, 86.19, 86.19.1, 86.19.2, 86.19.3, 86.19.4, and 86.22; by amending and renumbering Section 86.23; by adding Sections 86.0138, 86.0139, 86.0140, 86.0141, and 86.0142; by renumbering Sections 86.24, 86.24.1, 86.25, and 86.26; and by amending and renumbering Sections 86.27, 86.28, 86.29, and 86.30; all regarding traffic, vehicles, and parking in the City of San Diego;

This Ordinance amends the San Diego Municipal Code to prohibit parking of oversized, non-motorized, and recreational vehicles on any public street or City park in the City of San Diego between 10:00 p.m. and 6:00 a.m., or within 50 feet of any intersection at any time. Oversized vehicle, non-motorized vehicle, and recreational vehicle are all newly created defined terms. Exceptions are made for: oversized and non-motorized vehicles making pickups or deliveries; government or public utility vehicles; school buses transporting students; buses transporting youths or disabled persons during designated activities; vehicles otherwise lawfully using commercial loading zones; and vehicles displaying placards or license plates issued to disabled persons. A permitting process for residents of the City or guests of residents who wish to park recreational vehicles in the same block as their homes on public streets while preparing for trips is also authorized. These restrictions on the parking of oversized, non-motorized, and recreational vehicles expire two years after signs are posted providing notice of the parking restrictions;

Additionally, this ordinance makes other housekeeping changes to Chapter 8, Articles 1 and 6 of the Municipal Code by cleaning up certain defined terms and redundant numbering used within sections, as well as renumbering sections. This ordinance also removes a reference to a repealed section of Municipal Code from a section regarding fire apparatus access roadways.

**SUPPORTING INFORMATION:**

The need for an ordinance restricting the parking of oversized, non-motorized, and recreational vehicles on public streets, alleys, and parks was discussed at City Council on January 29, 2008. The proliferation of oversized vehicles, recreational vehicles, and trailers has risen to a level detrimental to public safety and quality of life issues. This is of particular concern in residential areas, where owners park large and often unsightly RVs in front of residents' homes for weeks or even months at a time, taking up precious parking spaces, blocking view corridors, and

restricting access to driveways and alleys. The City Council requested that City staff conduct a fiscal analysis of the proposal, both for Citywide implementation and for a proposed pilot area, generally described as west of I-5, north of downtown and south of Del Mar. A source of funding for the placement of signs and enforcement of a pilot program has not been identified.

There are two alternative proposals being presented to the City Council for adoption. This proposed ordinance is for a Citywide restriction on the parking of oversized, non-motorized, and recreational vehicles. This ordinance would prohibit parking of such vehicles on public streets, alleys, and in parks between 10 p.m. and 6 a.m., with certain specified exceptions. It would also prohibit parking of such vehicles within 50 feet of any intersection at any time. Violations would be an infraction with a fine of \$100. These restrictions would be implemented on a trial basis, effective for a period of two years after they are approved by the California Coastal Commission for the coastal zone.

City residents and their guests would be eligible to receive permits to park recreational vehicles for up to 72 hours, as long as the recreational vehicle is parked in the same block as the address of the residence. No more than 24 permits could be issued to any one address in any calendar year, and permits could not be issued for consecutive periods without at least 24 hours between permits. A fee would be charged for each permit, in order to recover the cost of implementation and enforcement of the proposed ordinance. The amount of the fee will be determined by City staff, and subject to approval of the City Council.

The ordinance also repeals and renumbers various provisions of Chapter 8 of the Municipal Code to bring these provisions into conformance with current formatting and numbering standards. For example, Municipal Code provisions now have only one decimal point, with only four numerals after the decimal point. Older provisions of the municipal code are gradually updated to this format as other amendments are processed.

FISCAL CONSIDERATIONS:

A funding source has yet to be identified to implement and enforce this proposed ordinance. Under the terms of the ordinance, signs must be posted in order for the ordinance to become effective and enforceable.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- LU&H on December 2004, and April 2005.
- Citywide Parking Advisory Board in May 2006.
- City Council (for discussion only) on January 29, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): N/A

Zeleny

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:48 a.m. – 9:51 a.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-S500: Amendment to Credit Agreement Between the Redevelopment Agency and Bank of America, N. A. for the North Park Redevelopment Project Area. (North Park Community Area. District 3.)

(See Redevelopment Agency Report No. RA-08-31/RTC-08-159; and memorandum from Janice Weinrick dated 10/20/2008.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-509) ADOPTED AS RESOLUTION R-304336

Authorizing the execution of a First Amendment to Credit Agreement with Bank of America, N.A. by the Redevelopment Agency of the City of San Diego for the North Park Redevelopment Project.

**STAFF SUPPORTING INFORMATION:**

On October 31, 2006, the Redevelopment Agency (RDA) entered into a Credit Agreement and obtained a \$10,000,000 Line of Credit with Bank of America to finance activities associated with the North Park Theatre and Parking Structure. Of the \$10,000,000 made available under the Credit Agreement, \$8,530,333 was drawn and the projects have been completed.

The Credit Agreement was entered into with the understanding the Agency would refinance the loan through a bond issuance at or before the end of the two-year term that expires on November 1, 2008. While the Agency is making preparations to reenter the bond market, timing factors and current market volatility necessitate the Agency to extend the term of the loan for a period of nine months.

The proposed First Amendment to Credit Agreement enables the Agency to extend the loan for a time period sufficient for the Agency to refinance the debt via a long-term bond issuance.

FISCAL CONSIDERATIONS:

There is no fiscal impact to the City or the City's General Fund by this action to extend the Credit Agreement for nine months. All payments will be made from tax increment generated by the North Park Redevelopment Project Area.

Based on the 9-month LIBOR (which is the index used to fix the interest rate) as of October 20, 2008, the quarterly interest payment on the loan is estimated to be approximately \$83,457 and the total interest payment through maturity (August 1, 2009) is estimated to be approximately \$250,371. The actual interest rate will be set on October 31, 2008, and it would be fixed for the 9-month period.

PREVIOUS AGENCY, COUNCIL AND/OR COMMITTEE ACTION:

On October 4, 2006, the City Council passed Resolution R-301944 authorizing the Redevelopment Agency to execute the original Credit Agreement with Bank of America, N.A. On October 11, 2006, the Redevelopment Agency passed Resolution R-04078 authorizing the execution of the same Credit Agreement.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On September 13, 2005, the North Park Project Area Committee (PAC) adopted a motion (6-1-1) to support the pledge of tax increment funds from the North Park Project Area to refinance the Agency's obligations for the completion of the North Park Theatre and North Park Parking Facility. On November 8, 2005, January 10, 2006, and August 14, 2006, the PAC received reports outlining efforts to secure the line of credit for this purpose.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Business entities involved in this transaction are Bank of America, N.A. (Lender); Kathleen C. Johnson, Attorney at Law (Bank's counsel); Best Best & Kreiger (bond counsel); and Kitahata & Company (financial advisor).

Weinrick/Anderson

Staff: Scott Mercer - (619) 236-6242  
Lourdes M. Epley - Deputy City Attorney

**NOTE:** See the Special Redevelopment Agency Agenda of October 28, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:32 p.m.)

MOTION BY ATKINS 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-S501: First Amendment to Agreement with Foley & Lardner LLP for Legal and Additional Services.

(See memorandum from Jay Goldstone dated 10/23/2008.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-523) ADOPTED AS RESOLUTION R-304330

Authorizing the City of San Diego to increase the not-to-exceed amount by \$158,000 for a total amount not to exceed \$258,000 on behalf of the City of San Diego with Foley and Lardner, LLP for continuing legal services related to the review and implementation of the IRS Voluntary Compliance Program (VCP) Agreement and additional services in connection with negotiating agreements with unions whose members' benefits were adversely affected by implementation of the IRS VCP Agreement;

Authorizing the City Comptroller to expend an additional \$158,000 from the General Fund/CFO Department (Fund 100/Dept. 240), solely and exclusively, for the purpose of providing funds for the above described legal services.

**STAFF SUPPORTING INFORMATION:**

In May of 2008, the City of San Diego ("City") entered into an Agreement with Foley & Lardner LLP to provide legal and additional services to the City pertaining to the resolution of claims arising out of union member SDCERS participants whose benefits were adversely affected by implementation of the IRS VCP Agreement and continuing discussions regarding the incumbent union president and cashless leave benefits. The original Agreement was for a not-to-exceed amount of \$100,000. The proposed amendment would increase the not-to-exceed amount by \$158,000 for a total not-to-exceed amount of \$258,000.

The scope of Foley & Lardner LLP's Agreement, as memorialized in the original agreement is to provide legal services to the City in connection with the review of the IRS VCP Agreement for SDCERS, its implementation and the obligation and/or the ability for the City to provide alternative benefits to employees and former employees of the City whose SDCERS benefits have been reduced as a result of the implementation of the IRS VCP Agreement. The City has asked the Firm to perform additional services in connection with negotiations and advice to the City regarding resolution of claims arising out of union member SDCERS participants whose benefits were adversely affected by implementation of the IRS VCP Agreement.

**FISCAL CONSIDERATIONS:**

Expend additional \$158,000 from the General Fund/CFO Department (Fund 100/Dept. 240) for the First Amendment to the Agreement between the City of San Diego and Foley & Lardner LLP (Firm) for continuing legal services related to the review and implementation of the IRS VCP Agreement and additional services in connection with negotiating agreements with unions whose members' benefits were adversely affected by implementation of the IRS VCP Agreement.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:** None.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** None.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:** None.

EOC INFORMATION:

Funding Agency: City of San Diego  
Goals: No goals associated with this action  
Original Contract Amount: \$100,000  
Change Order Amount: \$158,000  
Sub-consultant Participation:  
\$ -0- Certified Firms (00.0%)  
\$ -0- Other Firms (00.0%)  
Other: Workforce Report Submitted, dated 10/23/08. Equal Opportunity Plan  
not required.

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance. (San Diego Municipal Code Sections 22.3501 through 22.35 17).

Chadwick/Anderson

Aud. Cert. 2900341.

Staff: Scott Chadwick - (619) 236-6313  
Water C. Chung - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:47 a.m. – 9:48 a.m.)

CONSENT MOTION BY MADAFFER 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.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 5:01 p.m. in honor of the memory of:

Guy Showley as requested by Council Member Atkins.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:01 p.m. – 5:01 p.m.)