

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, OCTOBER 8, 2007
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Table of Contents

CHRONOLOGY OF THE MEETING.....	2
ATTENDANCE DURING THE MEETING	2
ITEM-1: ROLL CALL.....	3
ITEM-10: INVOCATION	3
ITEM-20: PLEDGE OF ALLEGIANCE.....	3
COUNCIL COMMENT	4
CITY ATTORNEY COMMENT	5
CLOSED SESSION ITEMS.....	6
ITEM-150: Two actions related to Pacific Highlands Ranch Public Facilities Financing Plan and Facilities Benefit Assessment Fiscal Year 2008. (Pacific Highlands Ranch Community Plan Area).....	12
ITEM-200: Informational Presentation from the San Diego County Water Authority	16
ITEM-201: Water Management Action Plan for City-Owned Properties	17
ITEM-202: Appointments to the Independent Rates Oversight Committee.....	19
ITEM-203: Four actions related to Wastewater Rate Increases Related to Shames v. City of San Diego and Proposed Water Rate Adjustments.....	21
ITEM-250: SUBMISSION OF BALLOT PROPOSALS.....	26
REPORT OUT OF CLOSED SESSION	27
NON-DOCKET ITEMS	27
ADJOURNMENT.....	27

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:02 p.m. with Council Member Atkins not present. Council President Peters recessed the meeting at 4:11 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:18 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 5:15 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 (mz)

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-not 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 Pastor Marshall Sharpe of Phillips Temple TME Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Faulconer.

FILE LOCATION: MINUTES

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Faulconer thanked all volunteers and community personnel for their assistance with Mt. Soledad.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:07 p.m.)

COUNCIL COMMENT-2:

Council Member Madaffer announced he will recommend motorcycle paramedics for beach and high-traffic areas to the Mayor. He will also propose for recommendation automated external defibrillators to become mandated to the next Land Use and Housing Committee meeting.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:10 p.m.)

COUNCIL COMMENT-3:

Council President Pro Tem Young congratulated the success of the FilAmFest held Saturday, October 6th and thanked his staff for their assistance in organizing the event.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:11 p.m.)

COUNCIL COMMENT-4:

Council Member Atkins announced Hillcrest as being designated as one of the ten great neighborhoods for 2007 through the American Planning Association's, Great Places in America Program.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:13 p.m.)

CITY ATTORNEY COMMENT:

CITY ATTORNEY COMMENT-1:

Deputy City Attorney McGrath recognized Italian heritage and Columbus Day. He also made the request to have items one and two on the Closed Session agenda be pulled because of potential Brown Act violations.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:16 p.m.)

CLOSED SESSION ITEMS:

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

CS-1 *City of San Diego v. San Diego City Employees' Retirement System (SDCERS)*

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 9, 2007

DCA Assigned:

The Mayor requests that the City Council consider the initiation of litigation, to include a Declaratory Relief Action and other actions as necessary, to determine the effective date of the benefit changes contained in the Memorandums of Understanding dated July 1, 2005 between the City and its recognized bargaining units. The above sought actions arise from a letter dated August 3, 2007 wherein SDCERS notified the City that it did not recognize July 1, 2005 as the effective date for the benefit changes. Rather, SDCERS notified the City that it deemed February 16, 2007 the effective date due to their assertion that the MOU is not the "Plan document" and, therefore, the Plan was not amended until January 17, 2007 when the City Council passed Ordinance 0-19567. The Mayor will request the retention of outside legal counsel to assist in these actions and discuss related Issues.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:16 p.m.)

Council President Peters closed the hearing.

Conference with Legal Council – anticipated litigation – initiation of litigation - pursuant to California Government Code section 54956.9(a):

CS-2 *Mt. Soledad Geological Movement*

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 9, 2007

The Mayor requests that the City Council consider the retention of outside counsel and other actions as necessary, in anticipation of litigation regarding the recent geological movement on Mt. Soledad.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:16 p.m.)

Council President Peters closed the hearing.

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

**CS-3 *Yevdokia (Daisy) Bristman, et al. v. Western Trucking, LLC, et al.*
San Diego Superior Court Case No. GIC 855357**

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 9, 2007

DCA: B. Hsu

Plaintiff claims personal injuries as a result of being run over by a tractor-trailer making a U-turn to enter a construction site which occurred on July 15, 2005. The City Attorney will discuss possible settlement in the case in Closed Session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:16 p.m.)

Council President Peters closed the hearing.

**CS-4 *In the Matter of: Natural Gas Anti-Trust Cases I, II, III, & IV*
RE All Price Indexing Cases, JCCP Nos. 4211, 4224, 4226, and 4228**

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 9, 2007

DCA Assigned: F. Ortlieb

This matter involves a pending consolidated action suit against retail sellers of natural gas for anti-competitive acts and unfair business practices in 2000 and 2001. In Closed Session, the City Attorney will discuss recommended settlements proposed for two defendants, Enserco Energy, Inc., and Aquila Merchant Services, Inc.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:16 p.m.)

Council President Peters closed the hearing.

**CS-5 *De Anza Cove Homeowners Association, Inc. v. City of San Diego, et al.*
San Diego Superior Court Case No. GIC 821191
Ernest Abbitt, et al. v. City of San Diego, et al.
San Diego Superior Court Case No. GIC 865536**

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 9, 2007

DCA Assigned: M. Severson

The *De Anza Cove Homeowners Association, Inc. v. City of San Diego, et al.* matter is an action filed by the De Anza Cove Homeowners Association for damages and declaratory relief. The *Ernest Abbitt, et al. v. City of San Diego, et al.* matter is an action filed by individual residents at De Anza Cove for damages. The Court has coordinated these two cases. In Closed Session the City Attorney will brief the Council on the status of these related matters, and discuss possible settlement with the City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:16 p.m.)

Council President Peters closed the hearing.

**CS-6 *La Jolla Country Club v. City of San Diego*
San Diego Superior Court Case No. GIC 872163**

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 9, 2007

DCA Assigned: C. Brock

La Jolla Country Club [LJCC] initiated its lawsuit against the City in 2006 alleging causes of action for (1) dangerous condition of public property, (2) private nuisance, (3) inverse condemnation, and 4) breach of contract. LJCC claims drainage facilities across LJCC's property failed causing damage to LJCC fairways. LJCC seeks reimbursement of fairway repair costs and other associated damages. In Closed Session, the City Attorney will present LJCC's settlement proposal to the City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:16 p.m.)

Council President Peters closed the hearing.

**CS-7 *Helsey v. City of San Diego*
San Diego Superior Court Case No. GIC 865903
(Consolidated with *Foote v. City of San Diego*
San Diego Superior Court Case No. GIC 865903)**

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 9, 2007

DCA Assigned: C. Brock

Plaintiff filed her Complaint for Nuisance, Trespass, Preliminary and Permanent Injunction, and Inverse Condemnation [Complaint] against the City in May 2006. Plaintiff's Complaint alleges water intrusion entering defects in the City street and gutter in front of her home has resulted in permanent damage to the hillside and patio structures on her property. In Closed Session, the City Attorney will present Plaintiff's settlement proposal to the City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:16 p.m.)

Council President Peters closed the hearing.

**CS-8 *Foote v. City of San Diego*
San Diego Superior Court Case No. GIC 865903**

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 9, 2007

DCA Assigned: C. Brock

Plaintiffs filed their Complaint for Nuisance, Trespass, Preliminary and Permanent Injunction, and Inverse Condemnation [Complaint] against the City in May 2006. Plaintiffs' Complaint alleges water intrusion entering defects in the City street and gutter in front of their home has resulted in permanent damage to the hillside and patio structures on their property. In Closed Session, the City Attorney will present Plaintiffs' settlement proposal to the City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:16 p.m.)

Council President Peters closed the hearing.

**CS-9 *T-Mobile v. City of San Diego*
San Diego Superior Court Case No. 07-CV-815-WGH**

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 9, 2007

DCA Assigned: J. Serrano

Lawsuit by wireless service provider, who leases City owned land for its facilities, contending the City's leasing policies are improper under Federal and State law. In Closed Session, the City Attorney will brief the City Council on the status of matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:16 p.m.)

Council President Peters closed the hearing.

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

CS-10 *City of San Diego v. Manchester Pacific Gateway, LLC*

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 9, 2007

DCA Assigned: M. Dickenson

The City Attorney requests the City Council consider initiation of litigation to enforce Manchester Pacific Gateway, LLC's, agreement to indemnify the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:16 p.m.)

Council President Peters closed the hearing.



ITEM-150: Two actions related to Pacific Highlands Ranch Public Facilities Financing Plan and Facilities Benefit Assessment Fiscal Year 2008. (Pacific Highlands Ranch Community Plan Area. District 1.)

(See Report to the City Council No. 07-151 [not available at Committee]; Report to the City Council No. 07-145. Pacific Highlands Ranch Public Facilities Financing Plan and Facilities Benefit Assessment Fiscal Year 2008, September 12, 2007 DRAFT.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2008-242) ADOPTED WITH DIRECTION AS
RESOLUTION R-303042

Resolution of the Council of the City of San Diego approving the Pacific Highlands Ranch Public Facilities Financing Plan and Facilities Benefit Assessment.

Subitem-B: (R-2008-243) ADOPTED WITH DIRECTION AS
RESOLUTION R-303043

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

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 9/19/2007, LU&H voted 4 to 0 to approve. (Councilmembers Atkins, Young, Madaffer, and Hueso voted yea.)

OTHER RECOMMENDATIONS:

The Carmel Valley Planning Group (CVPG) on July 10, 2007, voted (11-0) in support of the proposed financing plan with qualifications.

SUPPORTING INFORMATION:

REQUESTED ACTION:

1) Approve the FY 2008 Pacific Highlands Ranch PFFP; 2) Adopt a Resolution of Intention to designate an area of benefit for a Facilities Benefit Assessment (FBA) in Pacific Highlands Ranch; 3) Adopt a Resolution of Designation for the FBA in Pacific Highlands Ranch; and 4) Approve the setting of Development Impact Fees (DIF) consistent with the FBA in Pacific Highlands Ranch for those developments which have never been assessed or otherwise agreed to pay an FBA.

STAFF RECOMMENDATION:

Approve the Pacific Highlands Ranch PFFP, FY 2008; rescind the existing FBA and DIF and establish new FBA and DIF for Pacific Highlands Ranch.

EXECUTIVE SUMMARY:

Council Policy 600-36 calls for an annual review of all existing FBA. This is the annual review and will serve as the basis for the Capital Improvement Program (CIP) as it pertains to programming FBA funds in Pacific Highlands Ranch. The most recent review of the Pacific Highlands Ranch PFFP and FBA was approved by Council on July 5, 2006, by Resolution R-301608, and then later amended on November 20, 2006 by Resolution R-302097. This PFFP and FBA are a revision and update to the Fiscal Year 2006 plan.

The proposed financing plan details the public facilities that will be needed through the ultimate development of Pacific Highlands Ranch and for the projected population at full community development. The required facilities include a library, fire station, police station (located in Carmel Valley), a community park and two neighborhood parks, numerous trails, and major transportation facilities.

No change is proposed for the assessments of FY 2008:

<u>LAND USE</u>	<u>CURRENT ASSESSMENT</u>	<u>PROPOSED ASSESSMENT</u>
SINGLE FAMILY UNIT	\$69,118	\$69,118
MULTI FAMILY UNIT	\$48,384	\$48,384
DEL MAR HIGHLANDS ESTATES	\$47,002	\$47,002
VILLAGE ACRES	\$557,652	\$557,652
INSTITUTIONAL ACRES	\$198,273	\$198,273
EMPLOYMENT CENTER ACRES	\$371,765	\$371,765

Development in Pacific Highlands Ranch is limited by a transportation phasing plan until certain improvements are assured. The proposed PFFP and FBA includes the prioritization of FBA funding so that all of the projects required for the 1,900 dwelling units associated with the transportation phasing plan are funded with the assessments of those 1,900 dwelling units.

FISCAL CONSIDERATIONS:

Adoption of this revised PFFP will continue to provide a funding source for the public facilities identified in Pacific Highlands Ranch.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Land Use and Housing Committee voted unanimously, September 19, 2007, to approve the plan.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On July 10, 2007, the Carmel Valley Planning Group (CVPG) voted (11-0) in support of the proposed financing plan with the following qualifications: 1) A request to modify the first paragraph of the Funding Issues section of project T-12.2 El Camino Real Widening (Half Mile Drive to San Dieguito Road) on page 89 to state: Prorata funding distribution shall be based on the share of traffic generated by each community or project, except Pacific Highlands Ranch (FBA) will be limited to \$100,000 toward funding the preliminary engineering for a wildlife undercrossing, sized to the optimal dimensions to improve wildlife movement and designed to facilitate equestrian and pedestrian access in the City's Multiple Habitat Plan Area Northern Tier and the San Dieguito River Park; and 2) A request that staff report back to the Board relative to the gross cost of the Park-n-Ride (Project T-8) and the Transit Center (Project T-9) projects.

Staff has considered the CVPG request to include certain, specific language relative to the project to widen El Camino Real including a wildlife undercrossing. While the current project description does include a wildlife undercrossing, the reviewing agencies have not yet determined what type of undercrossing will be permitted at this site. Therefore, staff believes that inclusion of the requested specific language is premature at this time.

At the request of Pardee Homes, Latitude 33, has provided cost estimates and conceptual drawings for the Park-n-Ride (Project T-8) and the Transit Center (Project T-9) projects. Those revised estimates have been incorporated in the Fiscal Year 2008 Pacific Highlands Ranch PFFP.

SUPPORTING INFORMATION: (Continued)

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

All property owners with remaining new development are listed on the Pacific Highlands Ranch Assessment Roll, beginning on page 225. 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).

FILE LOCATION: STRT-FB-22 (33)

COUNCIL ACTION: (Time duration: 4:19 p.m. – 4:20 p.m.)

MOTION BY YOUNG TO ADOPT THE RESOLUTION IN SUBITEM A WITH THE UNDERSTANDING THAT THE WILDLIFE UNDER CROSSING WILL BE APPROPRIATELY SIZED 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-yea, Madaffer-yea, Hueso-yea.



[ITEM-200](#): Informational Presentation from the San Diego County Water Authority.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

REPORT RECEIVED WITH DIRECTION

Receive Informational Report from the San Diego County Water Authority.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 3:54 p.m.)

MOTION BY MADAFFER TO RECEIVE THE INFORMATIONAL REPORT FROM THE SAN DIEGO COUNTY WATER AUTHORITY WITH DIRECTION TO FORM A POLICY DIRECTION TO EITHER RETURN TO COUNCIL OCTOBER 29, 2007 OR TO RETURN TO THE NATURAL RESOURCES AND CULTURAL COMMITTEE ON OCTOBER 24, 2007; AND THEREAFTER, TO COUNCIL FOR THE MAYOR AND HIS STAFF TO 1) EXPLAIN HOW LONG-RANGE WATER RESOURCES PLAN WILL BE MET; 2) PRESENT WATER REUSE STUDY AND CONSIDER THE CITY'S WATER REUSE MASTER PLAN; 3) EXPLAIN HOW THE CITY IS PERFECTING THEIR RIGHTS ON THE EL MONTE AND SAN PASQUAL BASIN; AND AS A SEPARATE ITEM, 4) PROVIDE A STATUS REPORT TO COUNCIL ON INFRASTRUCTURE NEEDS. 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-201](#): Water Management Action Plan for City-Owned Properties.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-314) ADOPTED WITH DIRECTION AS RESOLUTION
R-303044

Take the following actions:

Request that the Mayor prepare and present to City Council within ninety days an action plan to address water management and conservation with respect to City-owned properties;

Directing the City Attorney to prepare the appropriate resolutions related to this action.

SUPPORTING INFORMATION:

Several factors have recently converged to highlight the need for the City of San Diego to closely examine its water usage. Due to its naturally arid climate, the City relies heavily on outside water sources to supplement its water supply, and its two main sources of water are threatened: the Colorado River is in the midst of its eighth year of drought, and a recent federal court ruling mandating protection of smelt in the Sacramento-San Joaquin Delta will likely further reduce our water supply by as much as 20-50%. Moreover, warmer-than-usual temperatures in the Sierra Nevada mountain range cause its snow caps to melt earlier in the year, at a time when our region's reservoirs are near capacity and unable to capture the precious runoff they produce.

As a result of these restrictions on the region's water supply, the state and regional water agencies that supply the City of San Diego have raised the possibility of mandatory water cutbacks. As a proactive measure, the County Water Authority and the Mayor have urged residents and business owners to voluntarily conserve.

Similarly, the City of San Diego has a responsibility to ensure it is using water as efficiently as possible. As a property owner of lands that include 39,441 acres of parks and open space, much of which contains regularly-irrigated landscaping, the City is a significant consumer with respect to the regional water supply and must contribute to the regional conservation effort.

A Water Management Action Plan for City-owned properties that evaluates opportunities for conservation in City buildings and, in particular, with respect to City-owned landscaping, will assist the City in its conservation efforts.

Today's action will direct the Mayor to develop a plan for the City of San Diego to identify water-saving practices for City-owned properties and activities. The plan should also include a time line for implementation. The Council further recommends that in developing this plan, the Mayor:

- Determine the City's current water use as a baseline against which future savings and the effectiveness of conservation efforts can be measured.
- To improve outdoor water efficiency, evaluate the feasibility of:
 - Inspecting irrigation systems at City facilities and parks in order to repair leaks and broken sprinkler heads and to correct overspray onto sidewalks and streets;
 - Ensuring that landscaping is irrigated in the most efficient and effective manner, and that watering schedules are timed to avoid water loss as a result of evaporation or wind interference; and
 - Converting regular irrigation systems to more effective irrigation methods, for example by using "smart" irrigation or drip irrigation technologies.
- To promote indoor water efficiency by, evaluate the feasibility of:
 - Replacing regular plumbing fixtures with low-flow devices and, where appropriate, with fixtures that operate automatically to shut off when not in use; and
 - Ensuring that City employees who live at City facilities as part of their job are trained in water-wise practices.
- Perfect and promote an efficient mechanism for reporting leaks and inefficient water use at City facilities and ensuring a response that is rapid, traceable, and accessible to City employees and members of the public.

Sweeney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:54 p.m. – 4:10 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-yea.



[ITEM-202:](#) Appointments to the Independent Rates Oversight Committee.

(See memorandum from Mayor Sanders dated 9/14/2007.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-238) ADOPTED AS RESOLUTION R-303045

Council confirmation of the following appointments by the Mayor of the City of San Diego to serve as members of the new Independent Rates Oversight Committee, for terms ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Linda Cocking (Tierrasanta, District 7)	Multi-family residential ratepayer representative	May 1, 2009
Jack Kubota (Carlsbad)	Engineering Professional	May 1, 2009
John Nelson (Crown Point/Pacific Beach, District 2)	Temporary Irrigation & Construction Ratepayer Representative	May 1, 2009
Charles Richardson (Carmel Valley, District 1)	Audit and Accounting Professional	May 1, 2009
Todd Webster (Talmadge, District 3)	Science Professional	May 1, 2009
Donald Billings (Del Mar Terrace/ Torrey Pines, District 1)	Finance/Municipal Finance Representative (Chair)	May 1, 2011

Lawrence Clemens (Rancho Santa Fe)	Construction Management Professional	May 1, 2011
Barry Newman (Escondido)	Law Professional	May 1, 2011
James Peugh (Point Loma, District 2)	Environmental Representative	May 1, 2011
Irene Stallard-Rodriguez (San Carlos, District 7)	Single-family residential ratepayer representative	May 1, 2011
Gail Welch (Carmel Valley, District 1)	Commercial and industrial ratepayer representative	May 1, 2011

Declaring that pursuant to Council Policy 000-13, for purposes of deliberation and consideration of appointment, it is determined that Jack Kubota, Lawrence Clemens and Barry Newman are residents of San Diego County, but not the City of San Diego, and have unique qualifications to serve as members of the Commission; therefore, conscious exceptions to Council Policy 000-13 are hereby declared for each of these appointees.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:17 p.m.)

MOTION BY HUESO 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-203: Four actions related to Wastewater Rate Increases Related to Shames v. City of San Diego and Proposed Water Rate Adjustments.

(See Report to the City Council Nos. 07-153 and 07-154.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2008-259) ADOPTED AS RESOLUTION R-303046

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

1. That based on the Report to the City Council, none of the revenue from the water rate increases will be used to fund capital projects for the expansion of the water system;
2. That the 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;
3. That 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).

Subitem-B: (R-2008-258) ADOPTED AS RESOLUTION R-303047

Approving 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, as follows:

- a. A water rate increase of \$0.09 per hundred cubic feet of water usage for all customer classes as related to the increase in the wholesale cost of water purchased by the City from CWA, effective January 1, 2008; and

- b. A water rate increase of \$0.14 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, 2008.

Subitem-C: (R-2008-250) ADOPTED AS RESOLUTION R-303048

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

1. That based on the Report to the City Council, none of the revenue from the sewer rate increases will be used to fund capital projects for the expansion of the sewer system;
2. That the sewer rate increases will allow the City to satisfy the terms of the Shames settlement without drawing on funds necessary for the operation of the sewer system or the financial reserves of the Sewer Fund;
3. That based on the foregoing findings, the Council of the City of San Diego finds that the sewer revenue increases approved pursuant to Resolution Number R-_____ are exempt from the California Environmental Quality Act pursuant to Public Resources Code Section 21080(b)(8) and CEQA Guidelines Section 15273(a).

Subitem-D: (R-2008-249) ADOPTED AS RESOLUTION R-303049

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

1. That sewer rate increases of 3.05% beginning on November 1, 2007, and an additional 3.05% beginning on May 1, 2008, are hereby approved for purposes of implementing the settlement of Michael Shames v. City of San Diego, including a monthly credit for eligible single family residential customers estimated to be \$3.25 per month, as set forth in the Proposition 218 Notice.
2. That these sewer rate increases shall remain in effect until \$40 million in revenue is raised and distributed in accordance with the settlement of Michael Shames v. City of San Diego, estimated to occur on or about October 30, 2011.

STAFF SUPPORTING INFORMATION:

In 2005, a class action lawsuit was initiated seeking correction for perceived wastewater rate imbalances. On May 18, 2007, the Superior Court for the County of San Diego approved an agreement to settle this class action lawsuit over the City's past wastewater service rates. The wastewater rate increase is needed to provide sufficient revenue to meet the court settlement revenue requirement of \$40 million. It is revenue neutral to the City of San Diego during the payment period; all funds raised by this proposed rate adjustment will go towards reducing sewer service charges for eligible single family residential customers or satisfying other terms of the court settlement.

On January 1, 2008, CWA will be increasing the rates to all their participating agencies, including the City of San Diego, for water purchases. The City intends to increase the currently effective Water system rates and fees proportionately across all user classifications in order to pass through the increased wholesale water purchase costs from CWA. These rate increase pass throughs were not part of the recent 4 year, 6.5% annual water rate increases approved by the City Council (Report to the City Council No. 07-039). Since the CWA rate increases were not finalized or approved by the CWA Board at the time of presentation of the Water Department's 4 year rate increase plan, CWA's rate increases were not included in the 4 year rate increase plan. The rate increase pass throughs are considered to be cost/revenue neutral and will not affect the strategic plan presented with the 4 year water rate plan. These pass throughs are subject to Proposition 218 noticing.

FISCAL CONSIDERATIONS:

The Shames wastewater rate increases will collect \$40,000,000 from all wastewater user classes (excluding eligible single family residential customers) and redistribute the same amount to eligible single family residential accounts.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On December 6, 2006, City Council approved a settlement of the suit that would give rebates to approximately 224,000 single-family wastewater ratepayers.

On July 30, 2007, City Council approved Proposition 218 public noticing for Shames wastewater rate increases and CWA pass through water rate increases, and set a public hearing date of October 8, 2007 for both items.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Proposition 218 Notice was mailed on August 15, 2007. The City mailed notices to every affected property owner of record and all City of San Diego water bill customers, advising them of the adjustments to the water rates due to the increase in the wholesale cost of water, as well as the Shames wastewater rate adjustments, and advised of the City Council hearing date for public comment on October 8, 2007.

The Proposition 218 also was posted on the City's website on August 14, 2007.

Pursuant to Section 67.0508 of the San Diego Municipal Code, if the proposed water rate increases are adopted, a notice will be placed in the City's official newspaper in November 2007 advising of the new rates becoming effective beginning January 1, 2008.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Commercial, industrial, multi-family, and ineligible single-family residence account holders will see increases in their wastewater service charges over the next four years. Examples of impacts on these account types, based on average usage, are provided in the Discussion section of this report.

Current single-family residential account holders whose residences had wastewater service prior to October 1, 2004, will have these wastewater rate increases credited back to them; additionally, they will receive a monthly credit that represents the distribution of revenues collected from all other account holders for this settlement action. Former single-family residential account holders who submitted valid claims will receive one-time rebates of \$1.50 per month for each month an account was held during the 10-year settlement period. These rebates total approximately \$29,000.

Bertch/Haas/Barrett

Staff: Darlene Morrow-Truver - (858) 292-6384
Raymond C. Palmucci - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:20 p.m. – 5:09 p.m.)

Council President opened the hearing.

Testimony in opposition by Adrian Marine, Bernie Axmann, Jeff Green, David Kenedy, Adam Huntington, Max Smith, Robert Meijer, and Kathy Evans-Calderwood.

Testimony in favor by Shawna Bennetts, Hal Simon, and Marco Gonzalez.

Council President Peters closed the hearing and directed City Clerk Elizabeth Maland to tabulate the submittal of protests.

City Clerk Elizabeth Maland announced that the City Clerk received a total of 7,461 protests in 5,150 envelopes from the period of August 20, 2007 through October 8, 2007 prior to the public hearing; of these, 5,435 have been determined to be valid protests with 140 protests still being researched. During the public hearing for item 203, a total of ten protests were received with none of them being validated. The total falls below the 137,908 which would be the 50% plus required to deny the proposed water and sewer rate increases. City Clerk Elizabeth Maland certified the results and submitted them to the City Council.

MOTION BY FRYE TO ADOPT THE RESOLUTIONS IN SUBITEMS A, B, C, AND D. 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-250: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred to Council following Rules Committee review.

Therefore, the City Clerk’s Office has established the following administrative guidelines for the February 5, 2008 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	9/14/2007	144	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee
Wednesday	9/19/2007	139	Rules Committee review
Monday	9/24/2007	134	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee (<i>NB: E-127 is 10/1/2007, a legislative recess</i>)
Monday	10/8/2007	120	Council adopts propositions for ballot; directs City Attorney to prepare ordinances
Monday	10/29/2007	99	Council adopts ordinances prepared by City Attorney
Friday	11/9/2007	88	Last day for City Clerk to file with Registrar of Voters all elections material
Monday	11/26/2007	71	Last day to file ballot arguments with City Clerk

If you have questions, please contact the Office of the City Clerk at (619) 533-4025.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 5:15 p.m. in honor of the memory of:

Sara Louise Thompson as requested by Council Member Atkins; and
Mary Jo Van Deerlin as requested by City Attorney Michael Aguirre.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:10 p.m. – 5:15 p.m.)