

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, FEBRUARY 19, 2008  
AT 10:00 A.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Council President Peters at 10:02 a.m. The meeting was recessed by Council President Peters at 11:59 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:01 p.m. with Council Member Young and Council President Pro Tem Madaffer not present. Council President Peters recessed the regular meeting at 3:47 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 4:00 p.m. with all Council Members present. Council President Peters recessed the regular meeting at 4:00 p.m. to meet in Closed Session in the twelfth floor conference room to discuss anticipated and pending litigation. Council President Pro Tem Madaffer reconvened the regular meeting at 5:14 p.m. with Council Member Atkins, Council Member Frye, and Council President Peters not present. Council President Pro Tem Madaffer recessed the regular meeting at 5:15 p.m. to reconvene the Redevelopment Agency. Council President Pro Tem Madaffer adjourned the Redevelopment Agency at 5:29 p.m. for the purpose of a break. Council President Peters reconvened the regular meeting at 5:30 p.m. with Council Member Atkins not present. The meeting was adjourned by Council President Peters at 7:15 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 (sr/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-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-not present

ITEM-10: INVOCATION

Invocation was given by Pastor Joe Sinnott of Horizon North Park.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Atkins.

FILE LOCATION: MINUTES

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on the Bible.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. - 10:43 a.m.)

PUBLIC COMMENT-2:

Michael Bell commented on homelessness.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-3:

Ron Boshun commented on Council Actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:46 a.m. - 10:49 a.m.)

PUBLIC COMMENT-4:

Hud Collins commented on the upcoming Mayoral election and the war.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:49 a.m. - 10:53 a.m.)

**PUBLIC COMMENT-5:**

Miss Warr commented on the City Attorney and homelessness.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:53 a.m. - 10:56 a.m.)

**PUBLIC COMMENT-6:**

Phil Hart commented on Mayor and Council compensation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:56 a.m. - 11:00 a.m.)

**PUBLIC COMMENT-7:**

Thomas Glasser commented on rebuilding after fire.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:00 a.m. - 11:03 a.m.)

**PUBLIC COMMENT-8:**

Jarvis Ross commented on President's Day.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:03 a.m. - 11:06 a.m.)

PUBLIC COMMENT-9:

Katheryn Rhodes commented on the Navy Broadway Complex.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:06 a.m. - 11:09 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Young commented on Black History Month.

FILE LOCATION: MINUTES

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

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

**CLOSED SESSION ITEMS:**

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

**CS-1 Number of Cases: One**

**REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 19, 2008**

DCA Assigned: M. Dickenson

The City Attorney will advise on the potential initiation of litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:51 p.m. – 3:51 p.m.)

**Council President Peters closed the hearing.**

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

**CS-2 In re SDCERS**

**REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 19, 2008**

EACA Assigned: D. McGrath

Release of partial transcript for August 2, 2005 Closed Session Item CS-2, related to pension litigation for in camera review by officials of the State Bar of California.

Closed Session Comment 1:

Joy Sunyata commented on litigation and long-term cases.

Closed Session Comment 2:

Jarvis Ross commented on attorney-client privileges.

Closed Session Comment 3:

Daniel Coffey commented on the release of transcripts.

Closed Session Comment 4:

Ann Smith commented on litigation authority.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:51 p.m. – 4:00 p.m.)

**Council President Peters closed the hearing.**



[ITEM-30:](#) Approval of Council Minutes.

**TODAY'S ACTION IS:**

Approval of Council Minutes for the meetings of:

APPROVED

01/07/2008  
01/08/2008  
01/10/2008 - Special  
01/14/2008  
01/14/2008 - Special  
01/15/2008  
01/21/2008 – Adjourned  
01/22/2008

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:06 a.m. - 10:06 a.m.)

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

ITEM-31: American Heart Month.

**COUNCIL PRESIDENT PETERS' AND COUNCILMEMBER FRYE'S  
RECOMMENDATION:**

Adopt the following resolution:

(R-2008-652) ADOPTED AS RESOLUTION R-303406

Commending the American Heart Association, in recognition of the importance of the ongoing fight against heart disease, for its dedicated commitment to saving thousands of lives and educating the public about the critical importance of cardiovascular health;

Proclaiming February 2008, to be "American Heart Month" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:30 a.m. - 10:38 a.m.)

MOTION BY FRYE 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-32: San Diego Community Housing Works Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-533) ADOPTED AS RESOLUTION R-303407

Commending Community Housing Works on the vital services and resources it provides to the residents and communities of San Diego and congratulating it on 25 years of success;

Proclaiming February 19, 2008, to be "San Diego Community Housing Works Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:20 a.m. - 10:30 a.m.)

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

ITEM-33: Scott Silverman Day.

**COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-635) ADOPTED AS RESOLUTION R-303408

Proclaiming February 19, 2008, to be "Scott Silverman Day" in the City of San Diego in recognition of the community services that he has provided the citizens of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:07 a.m. - 10:20 a.m.)

MOTION BY MAIENSCHIEIN 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-50: Amending the San Diego Municipal Code to Create a New Division 2 Titled "Video Service Provider Fees and Customer Service Regulations for State Franchise Video Service Providers".

(See Report to the City Council No. 08-006.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 2/4/2008, Item 205. (Council voted 6-0. Councilmembers Maienschein and Hueso not present):

(O-2007-118) ADOPTED AS ORDINANCE O-19719 (NEW SERIES)

Amending Chapter 7, Article 3, of the San Diego Municipal Code to create a new Division 2 titled "Video Service Provider Fees and Customer Service Regulations for State Franchised Video Service Providers". This ordinance sets forth the procedure for payment to the City of the state franchise fee of five percent (5%) of annual gross revenues that the Digital Infrastructure and Video Competition Act of 2006 established as compensation for the use of the public rights-of-way for the provision of video services, establishes a fee for the support of public, educational, and government access channel facilities, provides that the City may examine the business records of a state video franchise holder to the extent reasonably necessary to ensure accurate payment of compensation,

provides that the City is to enforce all customer service and protection standards applicable under law with respect to complaints received from residents within the City's jurisdiction, and provides a schedule of penalties for any material breach of any applicable customer service and protection standards by a holder of a state franchise.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:40 a.m. - 10:40 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: Appropriation of Funds and Third Amendment to Agreement with Dokken Engineering for the State Route 163 and Friars Road Project. (Mission Valley Community Area. District 6.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 1/29/2008, Item 50. (Council voted 8-0):

(O-2008-72) ADOPTED AS ORDINANCE O-19720 (NEW SERIES)

Authorizing the appropriation of an amount not to exceed \$145,000 from Job Order 179309, State Route 163 and Friars Road Interchange, to CIP-52-455.0, State Route 163 and Friars Road (Project), within Fund No. 63022, Private and Other Contributions;

Authorizing the appropriation of an amount not to exceed \$155,000 from Job Order 990348, Miscellaneous Transportation Improvements, to CIP-52-455.0, State Route 163 and Friars Road, within Fund No. 63022, Private and Other Contributions;

Authorizing a \$300,000 increase in the Fiscal Year 2008 Capital Improvements Program Budget in CIP-52-455.0, State Route 163 and Friars Road, Fund No. 63022, Private and Other Contributions;

Authorizing the Mayor, to execute, for and on behalf of the City, an agreement with Dokken Engineering, for professional engineering services for CIP-52-455.0, State Route 163 and Friars Road, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$761,000 from CIP-52-455.0, State Route 163 and Friars Road, of which \$300,000 is from Fund No. 63022, Private and Other Contributions, and \$461,000 is from Fund No. 30300, TransNet, for the purpose of executing this Third Amendment to the Agreement for the above referenced Project;

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

Declaring that this activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Sections 15061(c)(3). This determination is predicated on Section 15004 of the Guidelines, which provides direction to lead agencies on the appropriate timing for environmental review.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:40 a.m. - 10:40 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, Falconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-100: Addition of CIP-33-118.0, Rancho Bernardo Fire Station 33 Upgrades to the Fiscal Year 2008 Capital Improvements Program Budget. (Rancho Bernardo Community Area. District 5.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-596 Cor. Copy)      ADOPTED AS RESOLUTION R-303409

Authorizing the addition of CIP-33-118.0, Rancho Bernardo Fire Station Number 33 Upgrades, to the Fiscal Year 2008 Capital Improvement Project Budget;

Authorizing a \$1,100,000 increase in Fiscal Year 2008 Capital Improvements Budget in CIP-33-118.0, Rancho Bernardo Fire Station Number 33 Upgrades; with \$700,000 from Fund 39056, Rancho Bernardo Development Impact Fee Fund and \$400,000 from Fund 302453, Capital Outlay - Miscellaneous Revenue;

Authorizing the City Auditor and Comptroller to appropriate and expend \$1,100,000 from CIP-33-118.0, Rancho Bernardo Fire Station Number 33 Upgrades; \$700,000 from Fund 39056, Rancho Bernardo Development Impact Fee Fund and \$400,000 from Fund 302453, Capital Outlay - Miscellaneous Revenue for Project design, construction and related expenditures, contingent upon the City Auditor and Comptroller certifying that funds are available;

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

Declaring that this activity is exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301, because this action is the minor alteration of an existing facility.

**STAFF SUPPORTING INFORMATION:**

The proposed Project is located at 16966 Bernardo Center Dr., in the community area of Rancho Bernardo in Council District 5.

The Community of Rancho Bernardo, through its Community Council, has expressed its desire to work with the City in improving the existing Fire Station. A steering committee of volunteers was formed to raise funds for the project and to seek material and services donations. Through their efforts, a preliminary scope of required improvements and modifications to the station was prepared to provide better living conditions to the fire fighters and an improved circulation system for fire equipment, in order to make the operation more efficient.

The proposed scope of this project includes the addition of dorm rooms and an office, redesign and upgrade of existing dorm areas, training room, kitchen, ready room, bathroom, new concrete drive, resurface parking area, new roll-up doors, modification of existing equipment room to allow drive through circulation, repaint exterior and interior, mechanical and electrical upgrades and temporary facilities.

A deferred maintenance project for this facility was listed for Fiscal Year 09; however, in light of the community donations and current availability of FBA Funds, the creation of this CIP is being proposed to replace the deferred maintenance project and provide better improvements to the fire station. Much of the project scope will be completed using the available funds, \$700,000 from Fund No. 39056, Rancho Bernardo Development Impact Fee Fund and \$400,000 from Fund 302453, Capital Outlay - Miscellaneous Revenue. The remainder of the project scope will be completed through community volunteer work and donations. The total project cost is estimated at approximately \$2,034,000.

This action will allow the Engineering and Capital Projects Department to proceed with a Request for Design Build/Best Value Proposals to construct as much of the scope as possible with the available funds.

**FISCAL CONSIDERATIONS:**

Funding for this action is available from Fund No. 39056, Rancho Bernardo Development Impact Fee Fund \$700,000 and Fund 302453, Capital Outlay - Miscellaneous Revenue \$400,000.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:** None.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The Rancho Bernardo Community Council supports the projects and formed a steering committee of volunteers to work with City staff and to raise funds and seek donations for the project.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Rancho Bernardo Community  
Rancho Bernardo Community Council  
City of San Diego Fire Fighters

Greenhalgh/Jarrell/Oskoui

Aud. Cert. 2800508.

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

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 11:09 a.m. - 11:22 a.m.)

**MOTION BY MAIENSCHIN TO ADOPT.** 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-101: Otay Reservoir Land Sale and Exchange.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-367)                      ADOPTED AS RESOLUTION R-303410

Authorizing the Mayor, or his assignee, to execute appropriate documents formalizing the exchange and sale of City land for the purpose of perfecting a boundary line adjustment for the City's Otay Reservoir site;

Authorizing the Mayor, or his designee, to deposit \$377,000 into the Capital Outlay Fund 30246 for the 0.35 acres of land.

**STAFF SUPPORTING INFORMATION:**

In the early 1970s the City constructed a reservoir in the south east portion of Chula Vista to serve the Otay area. At that time the area was considered back country, with no development in the surrounding area. As development has moved eastward it has been discovered that when the reservoir was originally built, a portion was outside the City's ownership. To correct this error, this action is proposing a minor land exchange, with the Otay Land Company, that will correct the boundaries of the reservoir. As a result of the exchange the reservoir site will be reduced by 0.35 acres for which the Otay Land Company will pay \$377,000.

**FISCAL CONSIDERATIONS:**

Funds in the amount of \$377,000 will be deposited into Capital Outlay Water Fund 30246.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:** N/A

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

Not within the City boundaries.

Barwick/Anderson

Staff: David Sandoval - (619) 236-5548  
Todd Bradley - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:40 a.m. - 10:40 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: Amendment Regarding Addition of 6350 Block of Mesita Drive between Art Street and 64<sup>th</sup> Street to the Residential Permit Parking Area B. (College Community Area. District 7.)

(See Report to the City Council No. 08-012.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-593) ADOPTED AS RESOLUTION R-303411

Authorizing the addition of the 6350-block of Mesita Drive between Art Street and 64<sup>th</sup> Street to Residential Permit Parking Area "B" (Project);

Authorizing the City Auditor and Comptroller to expend \$600 from Fund 100 for the installation of four regulatory signs;

Declaring that the Project is the minor alteration in the use of an existing public structure with no expansion in use, and is, therefore, exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15301.

**STAFF SUPPORTING INFORMATION:**

The Residential Permit Parking Program was established to mitigate the impact on residential areas of long-term commuter parking generated by a facility such as a large college, a hospital, or a major industrial center. Since the program was enacted in 1977, six Residential Permit Parking Districts have been created. Residential Permit Parking Area "B", in the San Diego State University area, was established in 1984. This would be the seventh expansion of that district. This action was initiated in response to a petition representing 100% of the affected residences. This action has the support of the College Area Community Council.

**FISCAL CONSIDERATIONS:**

The current fee for annual permits in Area "B" is \$14, as established by the City Council. Average permit sales in Area "B" are 2 permits per address. The maximum number of permits allowed per address is 4.

The area to be added on Mesita Drive contains 5 addresses. Accordingly, it is estimated that the probable annual revenue from permit sales for the 5 residences on Mesita Drive would be about \$140 (based on 10 permits at \$14 per permit). According to Parking Management, the administrative costs of Area "B" are paid for by fees collected from permit sales. Additionally, there would be an initial start-up expense for the installation of 4 regulatory signs, at a cost of \$150 per sign, for a total of \$600; this cost is being absorbed in the General Services budget.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:** None.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

In accordance with the requirements of Section 86.2006 of the Municipal Code, a public hearing was held in conjunction with the monthly meeting of the College Area Community Council (CACC) on July 11, 2007. The results of the study were presented, and public comment was offered by residents of Mesita Drive and others in the community. Favorable input was received from those residents of Mesita Drive present at the meeting, after which the board of the CACC voted 12-0 with 2 abstentions to approve the request to include Mesita Drive in Residential Permit Parking Area "B". Opposition to the action was expressed by parents of students at the San Diego City School's Language Academy located on the corner of Mesita Drive and 64<sup>th</sup> Street.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

The proposed action would relieve the residents of the 6350-block of Mesita Drive of the presence of non-resident parkers. There would be an impact on those non-resident parkers currently utilizing Mesita Drive, in that they would have to find another place to park. Parents of students attending the Language Academy expressed concerns that the proposed action would impact and restrict parental and volunteer access to the Language Academy, and create difficulties in dropping off and picking up their children. There are no businesses in the immediate area to experience an impact on employees or customers.

Boekamp/Jarrell

Aud. Cert. 2800504.

Staff: Deborah Van Wanseele - (619) 533-3012  
Michael Calabrese – Chief Deputy City Attorney

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 11:12 a.m. - 11:22 a.m.)

MOTION BY MADAFFER 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-103: Settlement of Personnel Claim of Latoshia Otis.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-630) ADOPTED AS RESOLUTION R-303412

A Resolution approved by the City Council in Closed Session on Tuesday, November 20, 2007, by the following vote: Council President Peters-yea; Faulconer-yea; Atkins-yea; Council President Pro Tem Young-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Hueso-yea.

Authorizing the City Auditor and Comptroller to issue a check in the sum of \$75,000, made payable to Grady and Associates Client Trust Account, in full settlement of the lawsuit and of all claims;

Authorizing the City Counsel to pay the sum of \$75,000 from Metropolitan Wastewater Department Fund No. 41506.

**STAFF SUPPORTING INFORMATION:**

The proposed settlement would resolve all claims arising from Personnel Claim of Latoshia Otis.

**FISCAL CONSIDERATIONS:**

Settlement will be paid from the Metropolitan Wastewater Department Funding.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

This item was considered in closed session on November 20, 2007 the City Council approved the settlement amount of \$75,000. City Council voted 8 to 0 unanimously to approve. The motion was made by President Pro Young with a second by Councilmember Madaffer.

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

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

Schaefer/Goldstone

Aud. Cert. 2800499.

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

Staff: Janice Ellis - (619) 236-7705  
George F. Schaefer - Deputy City Attorney

**FILE LOCATION:** MEET

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

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

\* ITEM-104: Settlement of Personal Injury Claim of Leslie Beebe.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-474)                      ADOPTED AS RESOLUTION R-303413

A Resolution approved by the City Council in Closed Session on Tuesday, January 8, 2008, by the following vote: Council President Peters-yea; Faulconer-yea; Atkins-yea; Young-yea; Maienschein-yea; Frye-yea; Council President Pro Tem Madaffer-yea; Hueso-yea.

Authorizing the City Auditor and Comptroller to issue checks totaling the sum of \$80,000 made payable to the Gomez Law Firm Client Trust Account, in full settlement of the lawsuit and of all claims;

Authorizing the City Council to pay the sum of \$80,000 from the Public Liability Fund 81140.

**STAFF SUPPORTING INFORMATION:**

The proposed settlement would resolve all claims brought by Leslie Beebe.

**FISCAL CONSIDERATIONS:**

Settlement will be paid from the Public Liability Fund.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

This item was considered in closed session on January 8, 2008. The City Council approved the settlement amount of \$80,000. City Council voted 8-0 unanimously to approve. The motion was made by Council President Peters with a second by Councilmember Hueso.

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

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

Herrin/Goldstone

Aud. Cert. 2800511.

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

Staff: Janice Ellis - (619) 236-7705  
Michael Herrin - Deputy City Attorney

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 10:40 a.m. - 10:40 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: Pan Asian Lawyers of San Diego and Filipino American Lawyers of San Diego Day.

**COUNCIL PRESIDENT PETERS' AND COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-612) ADOPTED AS RESOLUTION R-303414

Commending Pan Asian Lawyers of San Diego and Filipino American Lawyers of San Diego for their crucial influence on the San Diego legal profession;

Proclaiming January 25, 2008, to be "Pan Asian Lawyers of San Diego and Filipino American Lawyers of San Diego Day" in the City of San Diego.

**FILE LOCATION:** AGENDA

**COUNCIL ACTION:** (Time duration: 10:40 a.m. - 10:40 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: Coalition for Reproductive Choice Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-622) ADOPTED AS RESOLUTION R-303415

Recognizing the San Diego Coalition for Reproductive Choice and commending it for its work to support, protect, and educate the public about reproductive freedom;

Proclaiming January 22, 2008, to be "Coalition for Reproductive Choice Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:43 a.m. - 11:59 a.m.)

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

\* ITEM-107: Rabbi Leonard Rosenthal Day.

**COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-621) ADOPTED AS RESOLUTION R-303416

Proclaiming February 2, 2008, to be "Rabbi Leonard Rosenthal Day" in the City of San Diego and saluting Rabbi Rosenthal for 20 years of unstinting dedication to the congregation of Tifereth Israel Synagogue and to the community as a whole.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:40 a.m. - 10:40 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-108: Excusing Council President Pro Tem Jim Madaffer from Attending the January 23, 2008 Land Use and Housing Committee Meeting.

**COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-613) ADOPTED AS RESOLUTION R-303417

Excusing Council President Pro Tem Jim Madaffer from attending the regularly scheduled Land Use and Housing Committee meeting of January 23, 2008.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:40 a.m. - 10:40 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: Excusing Councilmember Ben Hueso from Attending the City Council and Special Council Meetings of January 14, 2008, and the Council Meeting of January 15, 2008.

**COUNCILMEMBER HUESO'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-623)            ADOPTED AS RESOLUTION R-303418

Excusing Councilmember Ben Hueso from attending the regularly scheduled City Council meeting and Special Council meeting of January 14, 2008, and the Council meeting of January 15, 2008, due to illness.

FILE LOCATION:            AGENDA

COUNCIL ACTION:            (Time duration: 10:40 a.m. - 10:40 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: 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-2008-541)            ADOPTED AS RESOLUTION R-303419

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

COUNCIL ACTION: (Time duration: 10:40 a.m. - 10:40 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: 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-2008-576) ADOPTED AS RESOLUTION R-303420

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

FILE LOCATION: GEN'L - State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 10:40 a.m. - 10:40 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: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-615)            ADOPTED AS RESOLUTION R-303421

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: 10:40 a.m. - 10:40 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: Declaring a Continued State of Emergency Regarding the Wildfires.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-506)            ADOPTED AS RESOLUTION R-303422

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

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

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

COUNCIL ACTION: (Time duration: 10:40 a.m. – 10:40 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: Fire/Rescue Helicopter Acquisition.

(See Report to the City Council No. 08-011 and memorandum from Jyothi Pantulu dated 9/28/2007.)

**STAFF'S RECOMMENDATION:**

Take the following actions:

(R-2008-715) ADOPTED AS AMENDED AS RESOLUTION R-303423

Authorize the Mayor, or his designee, to approve the sole-source lease-purchase of a new Bell 412EP medium-lift helicopter manufactured by Bell Textron helicopter, to provide a second Fire-Rescue helicopter;

Authorize the Mayor, or his designee, to approve the financing of the new helicopter to be spread over a long-term (15-year) tax-exempt municipal lease/purchase agreement;

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

**STAFF SUPPORTING INFORMATION:**

In July 2005, the City of San Diego purchased a refurbished 1980 Bell 212 medium-lift fire-rescue helicopter. Copter 1 has proven itself to be an indispensable resource to the City and region. During the October 2007 wildfire, it was the only aerial firefighting resource available to operate within the City during the critical first two days of the fire.

It was anticipated that as Copter 1 aged there would be an increase in maintenance, resulting in less availability of the aircraft. In FY 2006, Copter 1 was unavailable due to maintenance 9.7% of the time, or 35.3 days. In FY 2007, this increased to 13.6% of the time, or 49.6 days. In addition to out-of-service time, the operation of a single fire-rescue helicopter has resulted in an inability to respond to multiple, concurrent emergency incidents and to provide additional needed helicopter support to large scale incidents like the wildfires experienced in 2003 and 2007.

As a result of these challenges, the acquisition and staffing of a second fire-rescue helicopter is essential to ensuring the ability to maintain at least one operational helicopter at all times and to provide additional aerial capability when needed. If approval for this acquisition is received by January 2008, the completed helicopter is expected to be in service by August of 2008.

There are a number of advantages of expanding Fire-Rescue's helicopter fleet from one to two aircraft, including: 1) increased probability that at least one helicopter will be available at all times; 2) capacity to handle multiple, concurrent emergency missions; 3) doubling of City-controlled aerial firefighting resources for large incidents; 4) dividing operating hours between both aircraft, thus increasing their service life; 5) enhanced maintenance coverage under the manufacturer's extended warranty program; 6) increased capability and safety via state-of-the-art technology and safety features; 7) having single-owner maintenance documentation and aircraft history; and 8) creation of higher, original owner resale value.

Acquisition of a Bell 412EP helicopter is based on the fact that no other medium-lift helicopter exists that would meet the Fire-Rescue Department's emergency multi-mission Level 1 instrument flight rules (IFR) performance requirements. Additionally, SDFD pilots and contract mechanics are already trained for the 412 series helicopter and own the specialized tools required for its maintenance.

Approval is requested for Fire-Rescue to begin the purchase process via Bell Textron Helicopter (BTH) of Fort Worth, TX. If approved, this aircraft would be assigned by Bell to Edwards & Associates of Bristol, TN. Staff recommends the helicopter be acquired through a single contract with Edwards & Associates, the only aircraft completion firm wholly owned by BTH. Edwards has a proven track record for completing 412EP modifications in a timely manner and would also be the recommended sole source provider for the airframe, avionics and EMS interior modifications, and installation of the specialized ancillary equipment required by SDFD.

**FISCAL CONSIDERATIONS:**

Estimated cost of the new fully-equipped helicopter is \$10.5 million. The fully financed cost would be \$15.9 million. Its service life is expected to be 15 years. Adequate funds currently exist within Fire-Rescue's helicopter special fund account #10264 to pay the sales tax payment upon aircraft delivery. Based on projected revenue deposits into this account, there would be no fiscal impact to the General Fund for the acquisition of the helicopter until Fiscal Year 2012. Additionally, the final payment for Copter 1's seven-year term lease-purchase will be made in FY 2013, reducing the City's overall annual expenditure for the Fire-Rescue Air Operations Program.

As an offset to the increased cost of providing two helicopters, it is anticipated that the combination of the contract with the Service Authority for Freeway Emergencies (SAFE), corporate sponsorships, and reimbursements from other agencies may realize as much as \$500,000 in revenue annually.

The staffing costs for the second helicopter for FY 2009 are estimated to be \$1,400,000 annually. Additional budgeted positions will not be needed since the Fire-Rescue budget has a sufficient number of unfilled FTEs in the Fire Captain and Firefighter classifications to fill the required number of crew positions. In order that the department has a sufficient personnel budget, the vacancy factor may need to be adjusted in the Fiscal Year 2009 and future budgets to fund the positions. In addition, the department will require a budget increase to support the 10% special pay of approximately \$67,020 not presently budgeted. The total impact on the General Fund for FY 2009 will be \$893,220, which includes operating and maintenance costs (\$826,200), special pays (\$67,020), and additional salaries through reduction of the vacancy factor (approximately \$1.4 million).

**PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.**

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Once the new fire/rescue helicopter is placed into service, San Diego Fire-Rescue will conduct an outreach effort to include the media and key stakeholders.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders include the City of San Diego and the citizens and visitors of San Diego.

Jarman/Olen

Staff: Brian Fennessy - (619) 533-4407

FILE LOCATION: PURCHASE

COUNCIL ACTION: (Time duration: 11:22 a.m. - 11:43 a.m.)

MOTION BY MADAFFER TO ADOPT THE RESOLUTION AS AMENDED TO INCLUDE LANGUAGE THAT THE MASTER LEASE AGREEMENT WILL COME BACK TO COUNCIL INCLUDING SPECIFIC INFORMATION ON WHERE THE FUNDING FOR THE \$1.4 MILLION WILL COME FROM. Second by Maienschein. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-331: Water System Financing (2008A Notes). (Citywide.)

(See Reports to the City Council No. 08-013 and 08-014; and memorandum from Debra Fischle-Faulk dated 2/5/2008.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-643) ADOPTED AS RESOLUTION R-303424

Approving the form of, and authorizing the issuance of, the Public Facilities Financing Authority of the City of San Diego Subordinated Water Revenue Notes, Series 2008A (Payable Solely from Subordinated Installment Payments secured by Net System Revenues of the Water Utility Fund) in an aggregate principal amount not to exceed One Hundred Fifty Million Dollars, approving the form of an indenture, approving the form and authorizing the execution and delivery of a Note Purchase Agreement and a 2008A Supplement to the Master Installment Purchase Financing, authorizing the City Attorney to appoint bond counsel and disclosure counsel and approving certain other agreements and actions in connection therewith.

**STAFF SUPPORTING INFORMATION:**

On January 16, 2007, the City Council authorized the issuance and the Authority subsequently issued the 2-year \$57 million Non-Transferable Subordinated Water Revenue Notes, Series 2007A to fund the Water Department's CIP needs until mid FY 2008. The proceeds of the 2007A Notes are projected to be expended by March 2008. On February 26, 2007, the City Council approved a series of four 6.5% annual water rate increases for FY 2008 through FY 2011. The approved water rate increases will also support another tranche of financing, a portion of which is being addressed with the proposed 2008A Notes short-term financing. The requested amount of \$150 million for the 2008A Notes is anticipated to fund CIP needs through December, 2008 in accordance with the mandates imposed by the Compliance Order with the State of California Department of Health Services. This will be a short-term private financing until a longterm bond issuance can be implemented later in 2008.

The financing documents submitted for the City Council approval include Note Purchase Agreement, Indenture, Assignment Agreement, Supplement to Master Installment Purchase Agreement, and the City Resolution. The Disclosure Practices Working Group ("DPWG") reviewed the proposed financing and the financing documents on January 30, 2008. If the requested actions are approved by City Council on February 19, 2008, the 2008A Notes will close on or about February 28, 2008. The Purchaser of the 2008A Notes is J.P. Morgan Securities Inc. ("Purchaser"). In addition to staff from the City Attorney's Office, the Debt Management Department, and the Water Department, the financing team also includes Fulbright & Jaworski LLP (Bond Counsel), Hawkins Delafield and Wood LLP (Disclosure Counsel), Nixon Peabody LLP (Purchaser's Counsel), Wells Fargo Bank, National Association (Trustee), and Montague DeRose and Associates LLC (Financial Advisor).

FISCAL CONSIDERATIONS

The interest rate will be fixed for the term of the 2008A Notes and will be set upon signing the Note Purchase Agreement (after City Council approval of financing) and will be based at 98 basis points above the two-year, natural AAA Municipal Market Data Index (“MMD”). The principal amount of the 2008A Notes is \$150 million and will mature 18 months after closing of the transaction. Interest only payments will be made semi-annually on August 1 and February 1 of each year. The principal is due at maturity (anticipated to be in August 2009). As of January 28, 2008, the indicative interest rate is estimated at 3.30% which would result in \$7.43 million in total interest payments over the 18 month term and semi-annual payments of \$4.95 million which would be paid August 1, 2008, February 1, 2009 and August 1, 2009. Interest payments will be made from the Net System Revenues of the Water Utility. The principal will be due in late August 2009. The costs of issuance associated with this financing are estimated at \$250,000 and will be paid from the 2008A Notes proceeds. The City shall have the right to repay the 2008A Notes, without premium or penalty, in whole or in part at any time after 12 months following the closing of the 2008A Notes.

PREVIOUS COUNCIL COMMITTEE ACTION:

There has been no previous committee action on this item.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

There were no community participation or outreach efforts.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Business entities involved in this transaction are: J.P. Morgan Securities Inc. (purchaser); Hawkins Delafield and Wood LLP (disclosure counsel); Nixon Peabody LLP (purchaser’s counsel); Fulbright & Jaworski LLP (bond counsel); Wells Fargo Bank, National Association (trustee) and Montague DeRose and Associates LLC (financial advisor).

Kommi/Lewis

Staff: Ruwen Liu - (619) 235-5832  
Mark D. Blake – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:01 p.m. – 3:47 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-nay, Madaffer-yea, Hueso-yea.

ITEM-332: Sunroad Centrum Residential, application for a Planned Development Permit and Vesting Tentative Map for one 5-story residential building containing 129 residential units and two 4-story residential buildings containing 379 residential units, subterranean parking, two recreation centers, and a 2-acre park site on a 12.49 acre site located at 8773-8827 Lightwave Avenue and 8770-8786 Spectrum Center Boulevard. (Kearny Mesa Community Area. District 6.)

Matter of the appeal by Ian Trowbridge and William Lyon Homes, Inc., of the Planning Commission's decision in approving an application for a Planned Development Permit and Vesting Tentative Map for one 5-story residential building containing 129 residential units and two 4-story residential buildings containing 379 residential units; subterranean parking, two recreation centers, and a 2-acre park site on a 12.49 acre site located at 8773-8827 Lightwave Avenue and 8770-8786 Spectrum Center Boulevard. The project will also include a Building Restricted Easement recorded over a 0.69 acre, unencumbered area on portions of Parcel 6 and portions of Parcel 7, of Parcel Map No. 18972. The project site is located between Kearny Villa and Paramount Drive in a CA Zone per the New Century Center Master Plan (currently CC-1-3) within the Kearny Mesa Community Plan area.

(See Report to City Council No. 08-009/Report to Planning Commission No. PC-07-058/Addendum to EIR LDR No. 99-1269/EIR No. LDR No. 96-0165/MND No. LDR No. 41-0101/Planned Development Permit No. 325462/Vesting Tentative Map No. 329293/Project No. 99397.)

**STAFF'S RECOMMENDATION:**

Take the following actions:

Subitem-A: (R-2008-00) CONTINUED TO MONDAY, APRIL 21, 2008

Grant or deny the appeal and grant or deny Planned Development Permit No. 325462, with appropriate findings to support Council action;

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

Subitem-B: (R-2008-00) CONTINUED TO MONDAY, APRIL 21, 2008

Grant or deny the appeal and grant or deny Tentative Map No. 329293, with appropriate findings to support Council action;

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

**OTHER RECOMMENDATIONS:**

Planning Commission on December 13, 2007, voted 6-0-1 to approve.

Ayes: Schultz, Griswold, Ontai, Otsuji, Naslund, Smiley  
Recusing: Garcia

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

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Appeal of the Planning Commission's approval of one 5-story residential building containing 129 residential units and two 4-story residential buildings containing 379 residential units, subterranean parking, two recreation centers, and a 2-acre park site on a 12.49 acre site located at 8773-8827 Lightwave Avenue and 8770-8786 Spectrum Center Boulevard in the Kearny Mesa Community Plan Area.

**STAFF RECOMMENDATION:**

Grant the appeal and deny Planned Development Permit No. 325462 and Vesting Tentative Map No. 329293.

**EXECUTIVE SUMMARY:**

The proposed project is located within New Century Center (NCC) in the Kearny Mesa Community Planning area, is designated in the plan for Mixed Use Commercial and Residential, and is subject to the development criteria of the NCC Master Plan, Design Manual and Development Standards. The project proposes to construct 508 residential units with on-site recreational facilities, a 2.0-acre park, and other park-like public amenities.

On December 13, 2007, the Planning Commission voted 6-0 to approve the project. On December 19, 2007, Ian Trowbridge appealed the project. On December 27, 2007, William Lyon Homes appealed the project.

The New Century Master Plan Design Manual includes a provision which states that “in connection with the introduction of residential uses within the Mixed Use Commercial/Residential area, the existing SDG&E substation shall be relocated to a non-residential portion of the site.” The language did not provide a clear trigger point for how this provision was to be achieved, and as a consequence prior residential projects have been approved without the substation removal.

The City of San Diego has had extensive in-depth meetings with the applicant, SDG&E, the City Attorney’s Office and William Lyon Homes. A Covenant, Restriction and Negative Easement Prohibiting Development of Land has been agreed to and signed by both SDG&E and Sunroad Enterprises that provides a method to satisfy the provision in the Master Plan with the City of San Diego as a third party. The agreement would restrict development on and around the location of the potential relocation site as identified in the New Century Center Master Plan. The agreement is enforceable by the City of San Diego and is a public document.

Staff believes that although with this covenant, the City has a method to satisfy the provision in the Master Plan, the exact timetable can not be established as the relocation is dependent on the California Public Utilities Commission approval and SDG&E. Therefore no additional residential projects should be approved for the New Century Center Master Plan Mixed Use Commercial/Residential Areas 1A, 1B, 3A and 2B.

**FISCAL CONSIDERATIONS:**

All costs associated with processing of this application are paid for by the applicant.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

On December 13, 2007, the Planning Commission voted 6-0 to approve the project.

On August 16, 2006, the Kearny Mesa Planning Group voted 9-0 to recommend approval of this project with the additional recommendation that the park include some passive landscaped areas with trees, shaded sitting areas and other landscaped elements including a tot area.

Also, it was requested that the street parking adjacent to the park be posted to limit parking to either a two or four hour limit so it will not become an alternative for residents to their assigned residential parking. Park planning staff will be working with the Park and Recreation Board and the community to determine the amenities for the proposed park site.

The Planned Development Permit does not regulate on-street parking, however the applicant has agreed to work with Traffic Engineering, Streets, to study a parking time limit zone.

On August 4, 2006, the San Diego Spectrum Design Review Committee approved this project as depicted in preliminary drawings and elevations.

**KEY STAKEHOLDERS:**

Sunroad Centrum Partners, Limited Partnership; Sunroad Enterprises

Broughton/Anderson/JT

**LEGAL DESCRIPTION:**

The project area is located within the northwestern portion of the New Century Center Master Plan Area of the Kearny Mesa Community Plan Area.

Staff: Jeannette Temple – (619) 557-7908

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

**FILE LOCATION:** NONE

**COUNCIL ACTION:** (Time duration: 5:30 p.m. – 7:12 p.m.)

Testimony in favor of the appeal by Ian Trowbridge, Katheryn Rhodes, and Joy Sunyata.

Testimony in opposition of the appeal by Paul Robinson, Steven Strauss, Mitch Berner, and Frank Furtasun.

**MOTION BY FAULCONER TO CONTINUE TO MONDAY, APRIL 21, 2008, FOR FURTHER REVIEW.** Second by Maienschein. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-not present, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-nay.

ITEM-350: **Notice** of Pending Final Map Approval – 4010 Texas Condominiums.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “4010 Texas Condominiums” (T.M. No. 279376/PTS No. 114455), located on the west side of Texas Street between Polk Avenue and Lincoln Avenue in the Greater North Park 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-351: 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 June 3, 2008 election:**

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	1/18/08	137	LAST DATE (10:00 a.m.) for public, departments and agencies to submit ballot proposals to City Clerk for review by Rules Committee
Wednesday	1/23/08	132	Rules Committee review
Monday	<b>1/28/08</b>	127	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee
Monday	<b>2/4/08</b>	120	Council adopts propositions for ballot; directs City Attorney to prepare ordinances
Monday	2/25/08	99	Council adopts ordinances prepared by City Attorney
Friday	3/7/08	88	Last day for City Clerk to file with Registrar of Voters all elections material
Thursday	3/20/08	75	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.

**ITEM-352: ARGUMENTS SUPPORTING OR OPPOSING PROPOSITIONS**

For propositions approved by the Council for submittal to the qualified voters of the City of San Diego at the Primary Election to be held on Tuesday, June 3, 2008, the City Clerk has fixed 12:00 p.m. (noon) on Thursday, March 20, 2008, as a reasonable date prior to such election after which no arguments for or against City Propositions may be submitted to the Clerk.

Any argument for or against any City proposition shall not exceed 300 words in length and may be filed by the Council, or any member or members of the Council authorized by the Council, or the bona fide sponsors or proponents of the measure, or any bona fide association of citizens or individual voter, or any combination of voters and associations.

All arguments must be accompanied by a statement signed by each author that the argument is true and correct to the best of his/her knowledge and belief. (Forms for this statement are available in the Office of the City Clerk.)

An argument shall not be accepted unless accompanied by the name or names of the person or persons submitting it, or if submitted on behalf of an organization, the name of the organization and the name of at least one of its principal officers. No more than five signatures shall appear with any argument submitted. In case any argument is signed by more than five persons, the signatures of the first five shall be printed.

Arguments may be changed or withdrawn by their proponents until and including the date fixed by the City Clerk.

Arguments shall be submitted to the City Clerk at the Office of the City Clerk, 2nd Floor, City Administration Building, 202 "C" Street, San Diego, California, 92101.

**REPORT OUT OF CLOSED SESSION:**

To view the list of all available City Council Closed Session Meetings Reports refer to the link below:

<http://www.sandiego.gov/city-clerk/closedsess.shtml>

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:15 p.m. – 5:16 p.m.)

**NON-DOCKET ITEMS:**

None.

**ADJOURNMENT:**

The meeting was adjourned by Council President Peters at 7:15 p.m. in honor of the memory of:

Marjorie Klein as requested by Council President Peters; and  
Bennie Edens as requested by Council Member Faulconer.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 7:12 p.m. – 7:15 p.m.)