

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, MAY 5, 2008  
AT 2:00 P.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 2:02 p.m. The meeting was adjourned by Council President Peters at 3:45 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-not present-Excused by R-303723, out of town
  - (8) Council Member Hueso-present
- Clerk-Maland (sr)

FILE LOCATION: MINUTES



ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-not present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES



ITEM-10: INVOCATION

Invocation was given by Joe Maloney of Horizon Christian Fellowship.

FILE LOCATION: MINUTES



ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Frye.

FILE LOCATION: MINUTES

COUNCIL COMMENT:

COUNCIL COMMENT 1:

Council Member Atkins introduced Antonio Figueroa from Hoover High who is shadowing Council; commented on follow-up items from the Budget memo she sent out; and thanked Council Member Faulconer for joining her in Balboa Park this morning.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:05 p.m. - 2:09 p.m.)

COUNCIL COMMENT 2:

Council Member Faulconer thanked all who were involved in the opening of the Children's Museum on Sunday and explained the reason for leaving early today.

FILE LOCATION: MINUTES

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

COUNCIL COMMENT 3:

Council Member Young commented on the Children's Book Festival over the weekend.

FILE LOCATION: MINUTES

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

COUNCIL COMMENT 4:

Council Member Hueso explained the true meaning of Cinco de Mayo.

FILE LOCATION: MINUTES

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

CLOSED SESSION ITEMS:

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

**CS-1 *Rickie G. Reynolds v. City of San Diego*  
San Diego Superior Court Case No. 37-2008-00082006-CU-WT-CTL**

**REFERRED TO CLOSED SESSION OF TUESDAY, MAY 6, 2008**

DCA Assigned: M. Severson

The *Rickie G. Reynolds v. City of San Diego, et al.*, matter is a new action filed by a former City of San Diego Assistant Chief Operating Officer for damages, alleging that his termination was in retaliation for reporting his concerns about the actions of a Mayor's Office employee as relates to the City Attorney's Office. In Closed Session, the City Attorney will recommend that the City of San Diego retain outside counsel to handle the matter.

Closed Session Comment 1:

Jarvis Ross commented on the actions of the Mayor's office.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:07 p.m. - 3:09 p.m.)

**Council President Peters closed the hearing.**

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

**CS-2 Agency Negotiator: Steven Berliner, Richard Kreisler, Lisa Briggs, Scott Chadwick, Tanya Tomlinson, Thom Harpole, Abby Jarl, Hadi Dehghani, Val VanDeweghe, Rod Betts, Jessica Falk Michelli, William Gersten, Lori Thacker, and Alan Hersh**

Employee Organizations: Municipal Employees Association,  
AFSCME Local 127 AFL-CIO, and  
Deputy City Attorney Association

**REFERRED TO CLOSED SESSION OF TUESDAY, MAY 6, 2008**

DCA's Assigned: W. Gersten/J. Falk Michelli/L. Thacker/A. Hersh

The Mayor and City Council will be updated on the status of the labor negotiations.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:07 p.m. - 3:09 p.m.)

**Council President Peters closed the hearing.**



ITEM-150: Fiscal Year 2009 Annual Action Plan and Substantial Amendment Five Year Plan of the Consolidated Plan to the United States Department of Housing and Urban Development (HUD). (Citywide.)

(See San Diego Housing Commission Report No. LUH-08-06, and Report to the City Council No. CCR-08-03.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-941 Rev.) ADOPTED AS AMENDED WITH REFERRAL AS  
RESOLUTION R-303650

Approving the City's federally required Fiscal Year 2009 Annual Action Plan for Community Development;

Approving the application for a Substantial Amendment to the FY 2005-FY 2009 Consolidated Plan;

Authorizing the Chief Executive Officer of the San Diego Housing Commission, or her designee, to submit the Plan and the Substantial Amendment, on behalf of the City, to the U.S. Department of Housing and Urban Development for its review and approval.

**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**

On 4/16/2008, LU&H voted 3 to 0 to approve the recommendation and forward to the Housing Authority. (Councilmembers Atkins, Maienschein, and Hueso voted yea. Councilmember Madaffer not present.)

**SUPPORTING INFORMATION:**

In 1994, HUD began requiring entitlement jurisdictions to prepare a five-year strategic planning document entitled the Consolidated Plan. In order to comply with HUD requirements, each entitlement jurisdiction is required to submit an annual application (Action Plan) and an annual performance report (Consolidated Annual Performance and Evaluation Report or CAPER).

Action Plans provide a one-year strategy to accomplish five-year goals identified in the Consolidated Plan. Action Plans also seek to meet the three goals of HUD for extremely low and low income people and families (those earning up to 80% of the Area Median Income):

- 1) Decent Housing
- 2) Suitable Living Environment
- 3) Expanded Economic Opportunities.

FY09 is the fifth year in the City's Five-Year (2005-2009) Consolidated Plan cycle.

The FY09 Action Plan serves dual purposes. First, it serves as the City's comprehensive strategic plan for community development, including affordable housing, economic development and human service activity. Second, it is the single application and spending plan for five federal entitlement programs totaling approximately \$26 million for FY09. The breakdown of the estimated funding amounts per program is as follows:

- Community Development Block Grant (CDBG: \$14,852,521)
- HOME Investment Partnerships (HOME: \$8,177,066)
- American Dream Down payment Initiative (ADDI: \$59,227)
- Emergency Shelter Grants (ESG: \$664,756)
- Housing Opportunities for Persons with AIDS (HOP WA: \$2,646,000)

The City of San Diego will be the grantee for all funds, although program responsibilities for HOME/ADDI are delegated to the San Diego Housing Commission and HOP WA responsibilities are delegated to the County of San Diego.

The draft Plan has been developed through a collaborative effort between staff of the Housing Commission, the City of San Diego's Community Services Division and the County of San Diego's Department of Housing and Community Development.

Upon receipt by HUD, the Plan will be deemed approved unless HUD notifies the City that additional information is required for the Plan to meet the criteria for approval. With approval, the Plan will generate approximately \$26 million in FY 09 to implement and continue community development efforts throughout the City.

**FISCAL CONSIDERATIONS:**

Without a final HUD approved FY09 Action Plan, the City will be ineligible to receive approximately \$26 million in federal funds that support community/economic development and affordable housing activities.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The draft FY09 Action Plan is available for public review from April 4, 2008 through May 5, 2008. The Plan is located in the reference section of the City's branch libraries. A notice of public review was published in four local newspapers, including one Spanish publication. In addition, opportunities for public input are available through a series of ongoing community presentations and hearings (see Attachment 3). A summary of public comments and responses has been included as Attachment 4. This summary outlines public input thus far and is continually revised as new input is received.

**KEY STAKEHOLDERS & PROJECTED IMPACTS:**

The Code of Federal Regulations requires that Consolidated Plan programs serve low and extremely-low income persons. Funds are made available to Community Based Organizations (CBO's) through a competitive process. In FY07 these funds were leveraged with \$150M in state and local fund to provide an array of services including but not limited to: homeless services, subsidized housing, small business development, redevelopment efforts, affordable housing financing, rehabilitation and neighborhood revitalization.

Philips/Vaughan

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. - 3:06 p.m.)

MOTION BY HUESO TO ADOPT AS AMENDED BY CHANGING THE LANGUAGE ON PAGE 5-16, SECTION 5.13 UNDER “COMMUNITY AND SUPPORTIVE SERVICES,” THE LAST PARAGRAPH, “THE PROGRAM PROVIDES FOR CODE ENFORCEMENT ACTIVITIES LOCATED WITHIN THE CITY’S LOW TO MODERATE INCOME AND BLIGHT DESIGNATED CENSUS TRACT/TARGET AREAS,” TO READ, “THE PROGRAM PROVIDES FOR CODE ENFORCEMENT ACTIVITIES LOCATED WITHIN DETERIORATED OR DETERIORATING AREAS AS DETERMINED BY THE CITY.” ALSO, REFER TO STAFF TO WORK WITH THE PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE TO CREATE A TEAM TO WORK WITH THE HOUSING COMMISSION ON THE CONSOLIDATED PLAN. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-not present, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.



ITEM-200: Authorizing Transfer and Appropriation of \$4,500,000 to the Public Liability Fund from Unallocated Reserves.

**STAFF’S RECOMMENDATION:**

Introduce and adopt the following ordinance:

(O-2008-139) INTRODUCED AND ADOPTED AS O-19745  
(New Series)

Amending Ordinance No. O-19652 (New Series) entitled “An Ordinance Adopting the Annual Budget for the Fiscal Year 2008 and Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year” by authorizing the appropriation and transfer of \$4,500,000 from the General Fund Unallocated Reserve to the Public Liability Fund for the purposes of paying costs resulting from damage claims and lawsuits against the City;

Amending the Appropriation Ordinance to appropriate \$4,500,000 from the General Fund Unallocated Reserve to Fund 100, Dept. 601, Citywide Program Expenditures (Org. 2900);

Authorizing the City Auditor and Comptroller to transfer \$4,500,000 from Fund 100, Dept. 601 Citywide Program Expenditures (Org. 2900) to the Public Liability Fund 81140.

**STAFF SUPPORTING INFORMATION:**

The purpose of the Public Liability Fund is the payment of costs resulting from damage claims and lawsuits against the City. At the beginning of Fiscal Year 2008 there was \$20.3 million available in the Fund. However, this funding has been exhausted and there are insufficient funds to meet future obligations through the end of this fiscal year. For the last several years, the City has been involved in significant and complex litigation that has resulted in unanticipated cost increases to the Public Liability Fund. It is projected that an additional \$4.5 million will be required by June 30, 2008 for various claim related expenses incurred this fiscal year.

**FISCAL CONSIDERATIONS:**

\$4,500,000 for this action is available in the Unallocated Reserves for transfer to Public Liability Fund 81140 via Fund 100, Dept. 601 Citywide Program Expenditures.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:** Not applicable.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** Not applicable.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:** Not applicable.

Bych/Lewis

Aud. Cert. 2800726.

Staff: Greg Bych - (619) 236-6651  
Brant Will - Deputy City Attorney

**NOTE:** Today's action is the second public hearing and the introduction and adoption of the ordinance. See Item 337 on the docket of Tuesday, April 29, 2008, for the first public hearing.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. - 2:15 p.m.)

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



ITEM-201: [Response of the City Council to the Grand Jury Report “Water Conservation: Sober Up San Diego, the Water Party is Over”](#).

(See Independent Budget Analyst Report No. 08-38.)

**INDEPENDENT BUDGET ANALYST’S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-942) ADOPTED AS AMENDED AS RESOLUTION R-303651

Approving and adopting as its own the response to the 2007-2008 San Diego County Grand Jury Report filed February 13, 2008, and titled “Water Conservation: Sober Up San Diego, the Water Party is Over,” as set forth in IBA Report No. 08-38 dated April 25, 2008;

Authorizing and directing the City Council President, on behalf of San Diego City Council, to execute and deliver the above-described response to the Presiding Judge of the San Diego County Superior Court no later than May 13, 2008.

Staff: Penni Takade - (619) 236-6445  
Catherine M. Bradley – Chief Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:09 p.m. - 3:42 p.m.)

MOTION BY FRYE TO ADOPT THE RECOMMENDATIONS AS STATED BY THE INDEPENDENT BUDGET ANALYST AS AMENDED BY ADDING LANGUAGE IN FINDING 3 TO ADDRESS THE ISSUE OF "REASONABLE COST." REFLECT THE VOTES SPECIFICALLY ON THE RECYCLED WATER ISSUE IN RECOMMENDATION 8-13, FINDING 5 AND FINDING 6, ALSO FORWARD THE MINUTES OF THOSE ACTIONS. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-not present, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-250: **Notice** of Pending Final Map Approval – Mission Pacific.

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 "Mission Pacific" (T.M. No. 147492/PTS No. 85076), located on the west side of 44<sup>th</sup> Street north of Meade Avenue in the Mid-City: Kensington-Talmadge 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-251: **Notice** of Pending Final Map Approval – 4840 W. Mountain View Drive.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “4840 W. Mountain View Drive” (T.M. No. 153408/PTS No. 90990), located on the west side of West Mountain View Drive between Collier Avenue and Copley Avenue in the Mid-City: Normal Heights 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.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 3:45 p.m. in honor of the memory of:

Abraham Dumanis at the request of Council Member Atkins.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:43 p.m. - 3:45 p.m.)