

THE CITY OF SAN DIEGO, CALIFORNIA
 MINUTES FOR REGULAR COUNCIL MEETING
 OF
 TUESDAY, SEPTEMBER 16, 2008
 AT 9:00 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 10:06 a.m. The meeting was recessed by Council President Peters at 11:41 a.m. to convene into Closed Session and thereafter reconvene the regular Council Meeting at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:04 p.m. with Council Member Madaffer and Council Member Hueso not present. Council President Peters recessed the meeting at 4:29 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:35 p.m. with Council Member Young not present. Council President Peters recessed the meeting at 5:19 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 5:24 p.m. with Council President Pro Tem Madaffer not present. Council President Peters recessed the meeting at 6:36 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 6:37 p.m. with all Council Members present. Council President Peters recessed the meeting at 6:39 p.m. to reconvene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 6:45 p.m. with all Council Members present. Council President Peters recessed the meeting at 6:47 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 6:57 p.m. with Council Member Maienschein and Council President Pro Tem Madaffer not present. The meeting was adjourned by Council President Peters at 8:28 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present

(7) Council Member Madaffer-present

(8) Council Member Hueso-present

Clerk-Maland (dlc/mz)

FILE LOCATION: MINUTES



ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:32 a.m. – 10:34 a.m.)

PUBLIC COMMENT-2:

Joey Rocano commented on the 301 (h) waiver.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-3:

Rudy Reyes commented on medical marijuana.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. - 10:41 a.m.)

PUBLIC COMMENT-4:

Phil Hart commented on the Southeastern Economic Development Corporation.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-5:

Izean Rim Jr. commented public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:43 a.m. - 10:45 a.m.)

PUBLIC COMMENT-6:

Al Strohlein commented on lost City records.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:45 a.m. - 10:48 a.m.)

PUBLIC COMMENT-7:

Mignon Scherer commented on water in California.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:49 a.m. – 10:52 a.m.)

PUBLIC COMMENT-8:

Jarvis Ross commented on government.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:52 a.m. - 10:54 a.m.)

PUBLIC COMMENT-9:

Joy Sunyata commented on a state of emergency.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:54 a.m. - 10:57 a.m.)

PUBLIC COMMENT-10:

Elinor Rector commented on the Bible.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. - 10:58 a.m.)

PUBLIC COMMENT-11:

David Ross commented on the displaced in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:01 a.m. - 11:03 a.m.)

PUBLIC COMMENT-12:

Joy Amdemikel commented on the homeless.

FILE LOCATION: AGENDA

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

COUNCIL COMMENT:

None.

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.



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

TODAY'S ACTION IS:

APPROVED

Approval of Council Minutes for the meetings of:

07/21/2008
07/22/2008
07/28/2008
07/29/2008
08/04/2008 – Adjourned
08/05/2008 – Adjourned
08/11/2008 – Adjourned
08/12/2008 – Special Meeting
08/18/2008 – Adjourned
08/19/2008 – Adjourned
08/25/2008 – Adjourned
08/26/2008 – Adjourned
09/01/2008 – Adjourned

FILE LOCATION: MINUTES

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

MOTION BY HUESO TO APPROVE. 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-31:](#) Unite in Peace Day.

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-252) ADOPTED AS RESOLUTION R-304117

Recognizing Unite in Peace for its leadership in community service and commending the organization for its dedication and tireless work for those who have been affected by adversity and tragedy;

Proclaiming September 16, 2008, to be “Unite in Peace Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:04 a.m. – 10:09 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-32:](#) Kerry Kirby Day.

COUNCILMEMBER MAIENSCHIEIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-245) ADOPTED AS RESOLUTION R-304118

Proclaiming September 16, 2008, as “Kerry Kirby Day” in the City of San Diego in recognition of the many community services she has provided to the citizens of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:10 a.m. – 10:14 a.m.)

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

- * ITEM-50: Second Amendment to the Agreement with T.Y. Lin International for the West Mission Bay Drive Bridge over San Diego River Replacement Project. (Mission Bay Park, Midway-Pacific Highway Corridor, and Peninsula Community Areas. Districts 2 and 6.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/2/2008, Item 54. (Council voted 8-0):

(O-2009-5) ADOPTED AS ORDINANCE O-19784 (New Series)

Authorizing the Mayor to execute, for and on behalf of the City, a Second Amendment to the Agreement with T.Y. Lin International in an amount not to exceed \$2,017,859, for professional services for the West Mission Bay Drive Bridge over San Diego River Replacement Project (Project), together with any reasonably necessary modifications or amendments thereto which do not increase the project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this Project and Agreement;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$2,017,859, of which \$2,000,000 is available from Fund 38993, Highway Bridge Program and \$17,859 is available from Fund 30300, TransNet for CIP-52-643.0, West Mission Bay Drive Bridge over San Diego River Replacement Project for the purpose of the Second Amendment to the Agreement with T.Y. Lin International;

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 CEQA Guidelines Section 15060(c)(2).

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 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: Fifth Amendment to Agreement with Boyle Engineering Corporation for Design Services for the La Jolla Village Drive/Interstate 805 Interchange Ramps Project. (University Community Area. Districts 1, 5, and 7.)

CITY COUNCIL’S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/2/2008, Item 55. (Council voted 8-0):

(O-2009-20) ADOPTED AS ORDINANCE O-19785 (New Series)

Authorizing the Mayor, or his designee, to execute a Fifth Amendment to the Agreement with Boyle Engineering Corporation for Design Services for CIP-52-485.0, La Jolla Villa Drive/Interstate 805 Interchange Ramps Project for an amount not to exceed \$809,158, under the terms and conditions set forth in the Amendment, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this Project and Agreement;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$809,158 from Fund No. 79001, North University City Facilities Benefit Assessment, CIP-52-485.0, La Jolla Village Drive/Interstate 805 Interchange Ramps Project for the purpose of executing this Fifth Amendment to the Agreement;

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

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

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

FILE LOCATION: MEET

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

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

- * ITEM-52: Contract Change Order No. 4 with Habitat Restoration Sciences for the San Diego Wetland Creation Project – Phase B. (Mission Valley Community Area. District 6.)

(See Metropolitan Wastewater Department's 5/21/2008, Executive Summary Sheet.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/2/2008, Item 56. (Council voted 8-0):

(O-2009-12) ADOPTED AS ORDINANCE O-19786 (New Series)

Approving Contract Change Order No. 4, issued in connection with the contract between the City and Habitat Restoration Sciences, said contract having been filed in the Office of the City Clerk as Document No. C-13428, together with the changes set forth, amounting to an extension of time of 3.5 years (1,245 days) on the project, and authorizing the Mayor, or his designee to execute the Change Order;

Declaring that the above activity is not a project and therefore is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(3). The activity is a subsequent discretionary approval of a project which was adequately addressed under Environmental Impact Report PTS No. 6020, and there is no change in circumstance, additional information, or project changes to warrant additional environmental review pursuant to CEQA Guidelines Section 15162.

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

FILE LOCATION: CONT-HABITAT RESTORATION SCIENCES

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 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-53: Exempting Six (6) Program Coordinator Positions in the Debt Management Department from the Classified Service.

(See memoranda from Hadi Dehghani dated 7/17/2008 and 6/27/2008.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/2/2008, Item 57. (Council voted 8-0):

(O-2009-16) ADOPTED AS ORDINANCE O-19787 (New Series)

Exempting from the Classified Service six (6) Debt Management Program Coordinator positions and declaring them to be in the Unclassified Service of the City of San Diego, pursuant to Section 117(a)17 of the City Charter, having received the review and comment of the Civil Service Commission on July 3, 2008, as meeting the Charter criterion for exemption from the Classified Service, and having considered and reviewed the memorandum thereon from the Personnel Director to the Council President and City Council dated July 17, 2008.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 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-54: Exempting One (1) Program Manager Position from the Classified Service.

(See memoranda from Hadi Dehghani dated 7/14/2008 and 6/27/2008.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/2/2008, Item 58. (Council voted 8-0):

(O-2009-8) ADOPTED AS ORDINANCE O-19788 (New Series)

Exempting from the Classified Service the position of Administrative Services Program Manager, reporting to the Park and Recreation Assistant Director, and declaring it to be in the Unclassified Service of the City of San Diego, pursuant to Section 117(a)17 of the City Charter, after having received the review and comment by the Civil Service Commission on July 3, 2008, as meeting the Charter criterion for exemption from the Classified Service, and after having considered and reviewed the memorandum from the Personnel Director to the Council President and City Council dated July 3, 2008.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 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-100: Grant Agreement with California Department of Public Health for Lead Enforcement Supplemental Funding for Fiscal Year 2008-2009.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-157)

ADOPTED AS RESOLUTION R-304119

Authorizing the Mayor, or his designee, to apply for, negotiate, and accept grant funding of \$537,543 from the California Department of Public Health in connection with the Lead Enforcement Supplemental Funding for Fiscal Year 2008-2009, to perform lead hazard enforcement and assist other local enforcement programs in the County of San Diego to develop lead hazard enforcement programs, and to execute Grant Agreement No. 08-85089;

Authorizing the City Controller, upon execution of the grant agreement, to accept, appropriate, and expend \$537,543, in grant award funds from the California Department of Public Health under its Lead Enforcement Supplemental Funding for Fiscal Year 2008-2009;

Declaring that the acceptance of grant funds is not a project and therefore is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378(b)(4); the proposed enforcement actions are categorically exempt from CEQA pursuant to CEQA Guidelines Section 15321; and the proposed implementation of various health-related modifications to existing structures is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301.

STAFF SUPPORTING INFORMATION:

The City's Lead Safe Neighborhoods Program (LSNP), coordinated by the Environmental Services Department (ESD), was approved by the City Council in 2002, and has since been aggressively tackling the problem of lead poisoning in San Diego. During the past six years, LSNP has been developing strategies and relationships designed to tackle the issue of lead poisoning in a multi-faceted way, relying on a blend of outreach, training, lead hazard control, and code enforcement activities. Primary funding source for LSNP have been grants totaling in excess of \$11,000,000.

In September 2007, CDPH announced supplemental funding in the amount of \$179,181 per year for three years, totaling \$537,543, to be allocated to the County of San Diego region to conduct lead enforcement activities to reduce incidences of childhood lead poisoning. The County of San Diego declined participating in the grant and CDPH allowed the City of San Diego to receive the award. This grant is very similar to one from the State of California that was managed by the LSNP from FY 2004 to FY 2006.

This grant is an important fiscal resource to support enforcement of the new Lead Hazard Prevention and Control Ordinance that was approved by City Council and the Mayor this year. Primary activities associated with this grant are:

1. Perform enforcement to remove lead hazards when a child has been identified with elevated blood lead levels.
2. Perform enforcement to remove lead hazards before a child has been identified with elevated blood lead levels.
3. Assist other local agency housing enforcement programs in the County of San Diego to develop lead enforcement protocols and procedures by providing funds for lead training, lead certification, technical assistance, and reimbursement on eligible lead enforcement cases.

ESD will re-classify an existing Building Maintenance position to create one new limited Asbestos and Lead Program Inspector position. The Asbestos and Lead Program Inspector position will be eliminated at the conclusion of the grant funding. The grant is currently funded through June 30, 2011, and may be renewed at that time.

FISCAL CONSIDERATIONS:

No matching funds are required for this grant. The grant provides \$179,181 per year, with a three-year total not to exceed \$537,543, beginning in FY 2009 and continuing through June 30, 2011. Of that amount, no more than \$52,000 may be used over the three-year period to offset eligible costs that support lead enforcement activities and training for other local jurisdictions.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

In 2004, the Lead Poisoning Prevention Citizens' Advisory Taskforce presented a municipal ordinance on the elimination of lead hazards within the City of San Diego, which the City's Land Use and Housing Council Committee approved. On March 25, 2008, the Lead Hazard Prevention and Control Ordinance was unanimously approved by City Council and signed into law by the Mayor. The effective start date for the ordinance was May 9, 2008.

Since FY 2002, the LSNP has annually received Community Development Block Grant (CDBG) funds to identify and eliminate lead paint hazards in area homes. In FY 2009, Council Districts 1, 3, and 6 combined have allocated \$102,500 of CDBG funding to conduct enforcement activities related to lead hazards.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Lead Poisoning Prevention Citizens' Advisory Taskforce was created in September 2002 to ensure community and stakeholder input for the Lead Safe Neighborhoods Program. The taskforce was co-chaired by Councilmember Donna Frye and former Councilmember Ralph Inzunza. The purpose of this committee was to provide consultation and assistance to the City with respect to the development and implementation of the LSNP. Additionally, the LSNP is currently administering two grants dedicated to conducting outreach and awareness. These grants fund educational materials, trainings and workshops to individuals and community associations, including awareness training on the new Lead Hazard Prevention and Control Ordinance. Many Community Based Organizations' (CBOs) and private sector associations are involved as grant partners.

KEY STAKEHOLDERS:

The City and County of San Diego and the residents, and local housing enforcement programs in the San Diego region.

Gonaver/Heap

Staff: Alan Johanns - (858) 573-1262
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: MEET

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

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

 * [ITEM-101](#): Designating Council President Pro Tem Jim Madaffer and Council President Scott Peters as Voting Delegates for the City of San Diego at the League of California Cities Annual Business Meeting.

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-194) ADOPTED AS RESOLUTION R-304120

Designating Council President Pro Tem Jim Madaffer as its voting delegate at the League of California Cities Annual Business Meeting being held in Long Beach, California on September 27, 2008, and designating Council President Scott Peters to serve as an alternate voting delegate.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:20 a.m. – 10:32 a.m.)

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

* ITEM-102: Appointment to the Southeastern Economic Development Corporation Board of Directors.

(See memorandum from Mayor Sanders dated 9/4/2008, with resume attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-260) ADOPTED AS RESOLUTION R-304121

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Southeastern Economic Development Corporation Board of Directors, for a term ending as indicated:

NAME

TERM ENDING

Delores McNeely
(Point Loma, District 2)
(Replacing Sharon Whitehurst-Payne,
who is termed out)

May 25, 2009

FILE LOCATION: MEET

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

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

* ITEM-103: Appointment and Reappointment to the Convention Center Corporation Board of Directors.

(See memorandum from Mayor Sanders dated 8/20/2008, with resume attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-261) ADOPTED AS RESOLUTION R-304122

Council confirmation of the following appointment and reappointment by the Mayor of the City of San Diego, to serve as members of the Convention Center Corporation Board of Directors, for terms ending as indicated:

NAME

TERM ENDING

Nicole "Nikki" A. Clay
(Mission Hills, District 2)
(Replacing Kevin Tilden, who is
termed out)

December 1, 2010

Chris Cramer
(Point Loma, District 2)
(Reappointment)

December 1, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 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: Reappointments to the Wetlands Advisory Board.

(See memorandum from Mayor Sanders dated 9/3/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-264) ADOPTED AS RESOLUTION R-304123

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

<u>NAME</u>	<u>TERM ENDING</u>
Eric Bowlby (North Park, District 3) (Reappointment)	July 1, 2009
H. Lawrence Serra (La Jolla, District 1) (Reappointment)	July 1, 2009
Judith St. Leger (South Park, District 3) (Reappointment)	July 1, 2009

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 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: Reappointment to the Old Town Planned District Design Review Board.

(See memorandum from Mayor Sanders dated 9/3/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-265) ADOPTED AS RESOLUTION R-304124

Council confirmation of the following reappointment by the Mayor of the City of San Diego, to serve as a member of the Old Town Planned District Design Review Board, for a term ending as indicated:

NAME

TERM ENDING

Charles Ambers, Jr.
(Old Town, District 2)
(Reappointment)

March 1, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 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: Reappointment to the Citizens' Equal Opportunity Commission.

(See memorandum from Mayor Sanders dated 9/3/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-262) ADOPTED AS RESOLUTION R-304125

Council confirmation of the following reappointment by the Mayor of the City of San Diego, to serve as a member of the Citizens' Equal Opportunity Commission, for a term ending as indicated:

NAME

CATEGORY

TERM ENDING

Dr. Patricia Hsieh
(Clairemont, District 6)
(Reappointment)

(Asian/Pacific Islander)

January 1, 2010

FILE LOCATION: MEET

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

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

* ITEM-107: Reappointments to the Historical Resources Board.

(See memorandum from Mayor Sanders dated 9/4/2008.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-263) ADOPTED AS RESOLUTION R-304126

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

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Maria Curry (Barrio Logan, District 8) (Reappointment)	Member	March 1, 2010
Louis Otto Emme (La Jolla, District 1) (Reappointment)	Member	March 1, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 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 September 22, 2008, Fire Prevention and Recovery Committee Meeting; September 22 and 23, 2008, Council Meetings; September 23, 2008, Closed Session Meeting; and September 24, 2008, Budget Committee Meeting.

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-230) ADOPTED AS RESOLUTION R-304127

Excusing Council President Pro Tem Jim Madaffer from attending the following meetings due to travel representing the City of San Diego on the San Diego Association of Governments (SANDAG) Board of Directors:

1. September 22, 2008 – Ad Hoc Fire Prevention and Recovery Committee Meeting.
2. September 22 and 23, 2008 – City Council Meetings (including Closed Session).
3. September 24, 2008 – Committee on Budget and Finance Meeting.

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

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 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: Declaring a Continued State of Emergency Regarding the Wildfires.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-38) ADOPTED AS RESOLUTION R-304128

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: 10:16 a.m. – 10:19 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-2009-56) ADOPTED AS RESOLUTION R-304129

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

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

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:19 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-2008-1115) ADOPTED AS RESOLUTION R-304130

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: 10:16 a.m. – 10:19 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-2008-1177) ADOPTED AS RESOLUTION R-304131

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: 10:16 a.m. – 10:19 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: Sole-Source Agreement with Emerson Process Management Power and Water Solutions, Inc., for Design and Construction of Metro Facilities Control System Upgrades at the Metropolitan Biosolids Center. (District 7.)

(See memorandum from Tom Zeleny dated 8/14/2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-246) ADOPTED AS RESOLUTION R-304132

Authorizing the Mayor, or his designee, to execute a Sole-Source Contract with Emerson Process Management Power and Water Solutions, Inc., for design and construction of Metro Facilities Control System Upgrades at the Metropolitan Biosolids Center in an amount not to exceed \$6,342,799, and under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$7,000,000, solely and exclusively, to provide funds for the above contract, contingency, and related costs, to be expended as follows: \$6,942,799 from Sewer Fund No. 41509, CIP-45-966.0, Metro Facilities Control System Upgrade; and \$57,201 from Sewer Fund No. 41509, CIP-46-502.0, Annual Allocation - Clean Water Program Pooled Contingencies; and provided that the City Comptroller furnishes one or more certificates demonstrating that the funds necessary for this expenditure are, or will be, on deposit with the City Treasurer;

Declaring that the above activity is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301 as the repair or maintenance of existing facilities.

STAFF SUPPORTING INFORMATION:

The existing Distributed Control System (DCS) at MBC was installed 10 years ago. Since the installation, the facility has added more processes and Capital Improvement Projects (CIP) utilizing most of the spare capacity of the system.

There are future critical CIP projects that will have to be incorporated and controlled by the DCS system at MBC. In addition, the control system installed at MBC has reached the end of its life cycle system support. A thorough Business Case Evaluation (BCE) was conducted. The alternative selected to do this project was to use the original vendor now known as Emerson Process Management Power and Water Solutions, Inc., as a Design/Build Contractor to design and upgrade the hardware and software. Emerson is the only qualified vendor that has the knowledge to understand the existing custom system configuration and how any software, hardware, or third party changes affect each other. The immediate benefits would be gaining a larger system capacity for future CIP upgrades planned for the plant and training for the operation staff will be minimal since the existing control strategies and graphics to operate the plant will be exactly the same. See Sole Source Request and approved memo dated June 5, 2007.

EQUAL OPPROTUNITY CONTRACTING:

Funding Agency: City of San Diego
Goals: 15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Subconsultant Participation: \$187,641 2.95% \$24,000 0.37%
Other: Workforce Report Submitted. Staff will monitor plan and adherence to Nondiscrimination Ordinance.

FISCAL CONSIDERATIONS:

The total cost of this project is \$ 7,000,000. Funding of \$6,642,800 will be available from the Enterprise Fund in CIP-45-966.0, Metro Facilities Control System Upgrade, Fund 41509, Sewer, and \$337,200 will be available from the Enterprise Fund in CIP-46-502.0, Annual Allocation - Clean Water Program Pooled Contingencies, Fund 41509, Sewer, for this purpose. The funds for this request are included in the 10-year financing plan.

The project cost for the Sewer portion of \$ 7,000,000 may be reimbursed approximately 80% by current or future debt financing.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Metro TAC Committee (4/16/2008), IROC (5/12/2008) and Metro Commission (5/29/2008). The Committee on Natural Resources and Culture on July 23, 2008, made no recommendation and directed staff to provide background information regarding any previous litigation with Emerson Process Management Power and Water Solutions, Inc.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders are the City of San Diego Metropolitan Wastewater Department, Engineering and Capital Projects Department and Emerson Process Management Inc.

Boekamp/Jarrell

Aud. Cert. 2900134.

Staff: Darren Greenhalgh - (619) 533-6600
James W. Lancaster - Deputy City Attorney

FILE LOCATION: CONT-Emerson Process Management

COUNCIL ACTION: (Time duration: 2:25 p.m. – 3:33 p.m.)

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



ITEM-331: Request to Bid – Demolition of Three Unreinforced Masonry Buildings (1335 Market Street, 753 and 771 13th Street) and One Building (4332 University Avenue) – East Village Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment Project and City Heights Redevelopment Project. (Districts 2 and 3.)

(See Centre City Development Corporation Report No. CCDC-08-25/
CCDC-08-14/RA-08-23/RTC-08-121.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-242) ADOPTED AS RESOLUTION R-304133

Making certain findings with respect to the payment for demolition of the three-unreinforced masonry buildings located at 1335 Market Street, 753 13th Street, and 771 13th Street, City of San Diego, in the East Village Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment Project;

Consenting to the payment by the Agency for all or part of the costs associated with the demolition activities in an amount not to exceed \$144,000;

Finding and determining that this activity is categorically exempt from review under the California Environmental Quality Act (CEQA), Class 1, pursuant to CEQA Guidelines Section 15301.

SUPPORTING INFORMATION:

The Agency has acquired four properties for future development. Recently, the Corporation was approached by Agency staff to provide assistance with demolition of an Agency-owned site in City Heights, already approved for a mixed-used development, and proceeding on a similar schedule. Economies of scale for budgets and schedules can be realized by demolishing all four Agency sites under the same contract.

As a result, the Corporation has agreed to take the lead on the Project and create a demolition contract document package for all four sites, and provide project management oversight during demolition activities. The three vacant East Village properties are located at 1335 Market Street (former Autohaus Pino) - future low and moderate income affordable housing site; and 753 and 771 13th Street (former Import Tire warehouse)-future East Village Green West park site. Each of the three 5,000 square-foot East Village sites contains unreinforced masonry buildings ("URMs"). Per the City of San Diego's ("City") URM ordinance, all URMs shall be seismically retrofitted or demolished to eliminate possible future liability, injury or loss of life due to building collapses. If these buildings are not brought into compliance with the City's ordinance, fines or legal action will be brought against the Agency as the current property owner. It is prudent now to move forward with demolishing the structures to eliminate blighting conditions, comply with the City's URM ordinance, and minimize future liability, injury or loss of life due to potential building collapses.

The 12,500 square-foot City Heights property is located at 4332 University Avenue and currently contains a 2,500 square-foot building. The site is within the footprint of the proposed City Heights Square Office and Retail project and subject to the Implementation Agreement with Price Charities. Price Charities is currently processing a change to the project, specifically, a change from an office and retail project to a commercial and residential project. Also, Agency staff and Price Charities are currently preparing a Second Implementation Agreement to the Disposition and Development Agreement (“DDA”) to reflect the proposed changes in the project. Both the entitlement package and Second Implementation Agreement to the DDA are proposed to be submitted to the Agency and City Council for consideration in fall 2008. Pursuant to the DDA, the Agency is obligated to relocate the existing tenant and demolish the existing structure.

FISCAL CONSIDERATIONS:

Funds for the East Village properties are available in the amount of \$96,000 in the Fiscal Year 2009 (“FY 09”) Agency Parks Budget, and \$48,000 in the FY 09 Agency Low/Mod Budget, for a total of \$144,000. Funds for the City Heights building in the amount of \$84,000 are available in the FY 09 City Heights Redevelopment Project Area Budget.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:

On July 30, 2008, the Corporation Board of Directors voted unanimously in favor of demolition of the three East Village buildings. The Corporation Board did not consider demolition of the City Heights building, as the Agency request to include the work came after the July 30, 2008, meeting. The added work will be funded separately by the City Heights Redevelopment Project Area Budget.

PREVIOUS AGENCY AND/OR COUNCIL ACTIONS:

The original DDA with San Diego Revitalization Corporation was approved by the Agency on May 3, 2005. The First Implementation Agreement to the DDA with Price Charities (formerly San Diego Revitalization Corporation) for the proposed City Heights Square Office and Retail Project was approved by the Agency on November 13, 2007.

Yee/Weinrick/Kaiser/Anderson

Aud. Cert. 2900171.

NOTE: See the Redevelopment Agency Agenda of September 16, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:28 p.m. – 6:36 p.m.)

MOTION BY FAULCONER 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-332: Tailgate Park Environmental Covenant. (Petco Ballpark Tailgate Park. District 2.)

(See memorandum from John Serrano dated 4/7/2008.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-896 Cor. Copy) ADOPTED AS RESOLUTION R-304134

Authorizing the Mayor, or his designee, to execute, deliver and record the Covenant to Restrict Use of Property Environmental Restriction between the City of San Diego and the County of San Diego for the property bounded by K Street, Imperial Avenue, 12th Avenue, and 14th Street in the City of San Diego, State of California.

SUPPORTING INFORMATION:

The memorandum recommends adoption of the resolution to satisfy California law. The Department of Toxic Substances Control has required that an environmental covenant document be recorded in the County land records restricting certain future uses of Tailgate Park and prohibiting activities that would disturb soil beneath the parking lot "cap." The Redevelopment Agency of the City of San Diego (RDA) owns Tailgate Park. The City owns the closed, but not vacated, streets within the park. The City and the RDA have executed an Encroachment Maintenance and Removal Agreement under which the RDA agreed to maintain and repair the closed street areas. The RDA has leased Tailgate Park to the Padres baseball organization.

This Environmental Covenant will assist with the environmental closure process for the Ballpark Project. Should the City or the RDA desire to use the land at this site in a manner that is inconsistent with the environmental covenant, provisions are available for a discretionary variance procedure that could allow such uses.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Resolution No. R-2992, adopted June 1, 1999, authorized the President of the Centre City Development Corporation, or designee, to take actions as appropriate within the Project area as authorized by the Polanco Redevelopment Act.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Redevelopment Agency; Padres Baseball Team

Serrano/Goldstone

NOTE: See the Redevelopment Agency Agenda of September 16, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:46 p.m. – 6:46 p.m.)

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



ITEM-333: La Jolla Shores Lifeguard Station Amendment, Project No. 146179. Appeal of the environmental determination for a Mitigated Negative Declaration. (La Jolla Community Plan Area. District 1.)

The La Jolla Shores Lifeguard Station Amendment project site is located in front and adjacent to Kellogg Park on the west side of the boardwalk which runs parallel to the Pacific Ocean shoreline near Calle Frescota within the La Jolla Community Plan area. The project is to demolish the existing 850 square-foot lifeguard station located on the west side of the boardwalk within the park's green space; construct a new 1,485 square-foot lifeguard station consisting of two separate buildings that would be connected by a breezeway, with a 30-foot observation tower cantilevered out over the boardwalk and sand (on the east side in the southwest corner of the existing parking lot), away from the park's green space; and construct a detached 650 square-foot single story, rescue vehicle and emergency equipment facility also within the parking lot. In addition, the existing 360 square-foot steel container (adjacent to Kellogg Park along Calle Frescota) which currently stores the lifesaving equipment would be removed.

The project site is zoned Public Park (PP) of the La Jolla Shores Planned District (LJSPD) and is designated for Parks/Open Space within the La Jolla Community Plan area.

NOTE: Matter of the appeal filed by Philip A. Merten applies only to the environmental determination.

(See Report to the City Council No. 08-123.)

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2009-000) DENIED APPEAL AND UPHELD THE DECISION OF THE PLANNING COMMISSION TO CERTIFY THE MITIGATED NEGATIVE DECLARATION, ADOPTED AS RESOLUTION R-304135

Granting or denying the appeal and upholding or overturning the Planning Commission's decision certifying the Mitigated Negative Declaration, Project No. 146179; and certifying associated Mitigation, Monitoring and Reporting Program;

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

OTHER RECOMMENDATIONS:

Planning Commission on July 10, 2008, voted 4-0-3 to deny the appeal and approve Coastal Development Permit No. 516403 and Site Development Permit No. 516405; Certify Mitigated Negative Declaration LDR No. 146179 and adopt Mitigation, Monitoring and Reporting Program..

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

The La Jolla Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the environmental determination for a Mitigated Negative Declaration for the La Jolla Shores Lifeguard Station project, located within the La Jolla Community Plan area.

STAFF RECOMMENDATION:

Deny the appeal and **Uphold** the Environmental Determination.

EXECUTIVE SUMMARY:

The project proposes to demolish the existing 850 square-foot lifeguard station and the 360 square-foot steel storage container; construct a new 1,485 square-foot lifeguard station with a 30-foot observation tower and a detached 650 square-foot single story equipment facility at Kellogg Park (8200 block of Camino Del Oro) within La Jolla Shores.

On May 7, 2008, the Hearing Officer certified Mitigated Negative Declaration (MND) LDR No. 146179, adopted Mitigation, Monitoring and Reporting Program; and approved Coastal Development Permit No. 516403 and Site Development Permit No. 516405. On May 21, 2008, the project was appealed to the Planning Commission (PC) by Barry Kusman.

On July 10, 2008, the PC denied an appeal of the Hearing Officer's approval and granted all approvals for the proposed project. On July 21, 2008, Philip A. Merten appealed the MND.

Basis for the Appeal: The environmental concerns listed by the appellant include Land Use and Visual Quality as outlined within the Initial Study Checklist of the MND.

The **appellant** believes the project does not conform to the land use goals, objectives and recommendations of the certified La Jolla Community Plan (LJCP) and Local Coastal Program Land Use Plan (LCPLUP).

Staff Response: The project as proposed would meet the land use goals, objectives and recommendations of the LJCP and LCPLUP because it reconstructs the existing facility away from the Kellogg Park green space, locates the facility on the pavement side of the boardwalk and not the sand side, and the tower has been designed with a narrow profile to help protect public views. The existing equipment storage facility is located adjacent to Calle Frescota. The new equipment facility would be located in the northern part of the parking lot, thereby completely removing it from the Calle Frescota view corridor.

In addition, the project would provide a more modern facility to accommodate the need for increased lifesaving staff and the ever increasing number of beachgoers attending this area. The new proposal would provide a public first aid facility for users of La Jolla Shores and Kellogg Park. Therefore, no land use impacts would occur.

The **appellant** believes there would be impacts to the certain public vantage points identified in the LJCP and LCPLUP.

Staff Response: Analysis of the public views and vantage points identified in the LJCP and LCPLUP (page 145 - Figure C) resulted in no substantial view blockage. The view from Kellogg Park and Camino Del Oro are being enhanced because the proposed project location would be providing expanded ocean views from the grassy park area and no obstruction from an identified view corridor.

FISCAL CONSIDERATIONS:

La Jolla Shores Lifeguard Station is a Capital Improvement Project being funded through CIP 33-503.0. Fund 92110-PFFA-FLSF and Fund 91442000 TOT/CIP COASTAL INFRA.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

1. February 9, 2005, Hearing Officer (HO) approved the original project and certified the Negative Declaration.
2. May 12, 2005, the PC denied the appeal and Upheld the HO's decision.
3. May 7, 2008, the HO approved the project and certified the MND.
4. July 10, 2008, the PC denied the appeal and Upheld the HO's decision.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On February 26, 2008, the La Jolla Shores Permit Review Committee voted 3-0-0 to approve the project with no conditions. On April 3, 2008, the La Jolla Community Planning Association voted 12-1-1 to approve the project with conditions.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

The Key Stakeholders are The City of San Diego Fire and Rescue Department, and the Police Department.

LEGAL DESCRIPTION:

The proposed project is located on the boardwalk west of the 8200 block of Camino Del Oro, at La Jolla Shores Beach at Kellogg Park, within the Coastal Zone and the La Jolla Community Planning Area.

Broughton/Anderson

Staff: Vena Lewis – (619) 446-5197
Andrea Dixon – Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:39 p.m. – 4:29 p.m.)

Testimony in favor by Phil Merten, Greg Salmon, Mary Coakley and Karen Boger.

Testimony in opposition by Rick España, Fran Doolittle, Ralph Roesling, Sebastian Mariscal and Hector Perez.

MOTION BY MADAFFER TO ADOPT STAFF'S RECOMMENDATION TO DENY THE APPEAL AND UPHOLD THE DECISION OF THE PLANNING COMMISSION CERTIFYING THE MITIGATED NEGATIVE DECLARATION; AND CERTIFYING THE ASSOCIATED MITIGATION, MONITORING AND REPORTING PROGRAM. 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-334:](#) Torrey Hills VTM, Project No. 106228. An application for a Rezone from the

IP-2-1 and RM-2-5 Zones to RM-3-8 and OR-1-1 Zones, Community Plan Amendment, Vesting Tentative Map and Planned Development Permit to allow the development of 484 residential condominiums and 4,000 square feet of commercial retail space. (Torrey Hills Community Plan Area. District 1.)

Matter of approving, conditionally approving, modifying or denying an application for a Rezone from the IP-2-1 and RM-2-5 Zones to RM-3-8 and OR-1-1 Zones, Community Plan Amendment, Vesting Tentative Map and Planned Development Permit to allow the development of 484 residential condominiums and 4,000 square feet of commercial retail space on a 22.3 acre site located south of Calle Mar De Mariposa between Vista Sorrento Parkway and West Ocean Air Drive in the Torrey Hills Community Plan Area.

STAFF'S RECOMMENDATION:

Adopt the following resolutions in Subitems A, C, D, and E; and introduce the ordinance in Subitem B:

Subitem-A: (R-2009-188 Cor. Copy) ADOPTED AS RESOLUTION R-304136

Adoption of a Resolution certifying that Final to Master Environmental Impact Report No. 106228, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended and State Guidelines, thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a rezone, community plan amendment, vesting tentative map and planned development permits for the Torrey Hills project;

Declaring that pursuant to California Public Resources Code Section 21081 and Administrative Code Section 15091, the City Council hereby adopts the Findings made with respect to the project, a copy of which is attached hereto and incorporated herein by reference;

Declaring that pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Project specific Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto as Exhibit A, and incorporated herein by reference;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-E: (R-2009-187 Cor. Copy) ADOPTED AS RESOLUTION R-304139

Adoption of a Resolution certifying the findings with respect to Planned Development Permit (PDP) No. 352707;

Declaring that the recommendation of the Planning Commission is sustained, and PDP No. 352707 is granted to Westbrook Torrey Hills, L.P., a Delaware limited liability company, AME Torrey View LLC., a California limited liability company and Pacific Centre Carmel Valley, LLC., a California limited liability company, Owners and Pacific Centre Carmel Valley, LLC., a California limited liability company, Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

OTHER RECOMMENDATIONS:

Planning Commission on August 7, 2008, voted 5-0-2 to approve the project and support Staff's recommendations.

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

The Torrey Hills Community Planning Board voted several times on the proposed project. The final action by the Board was a vote of 9-3-0 on May 20, 2008, to not support the project. The Board could not support the project as proposed primarily due to the increase in density above that which already exists in the community. The Board motion was a tentative position reserving their opportunity to comment after reviewing the final EIR.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

A Rezone, General Plan and Community Plan Amendment, Vesting Tentative Map and Planned Development Permit to develop 484 residential condominiums and one commercial condominium for 4,000 square feet of commercial space, site landscaping, and minor improvements in the public right-of-way on 22.3 acres within the Torrey Hills Community Plan area.

STAFF RECOMMENDATION:

1. **Certify** Environmental Impact Report No. 106228, Adopt the Findings and Statement of Overriding Considerations, and Adopt the Mitigation Monitoring and Reporting Program; and
2. **Approve** Rezone No. 352706, Community Plan Amendment No. 354697, Vesting Tentative Map No. 352708 and Planned Development Permit No. 352707.

EXECUTIVE SUMMARY:

The Torrey Hills Community Plan currently designates the site for industrial development. The community plan amendment would re-designate the site for a maximum of 484 multiple family dwelling units and transfer 950 Average Daily Trips (ADT) from Traffic Analysis Zone (TAZ) 731 to TAZ 737. The 22.3 acre site is located between West Ocean Air Drive and Vista Sorrento Parkway, south of Calle de Mar Mariposa in the Torrey Hills Community Plan area. The zoning request would rezone the IP-2-1 and RM-2-5 Zones on the site to the RM-3-8 and OR-1-1 Zones. A Vesting Tentative Map and Planned Development Permit would allow the site to be subdivided for condominiums and develop a project with 484 residential units and 4,000 square feet of commercial space, site landscaping, and minor improvements in the public right-of-way in the Torrey Hills Community Plan area.

The project proposes two deviations from the requirements of the proposed RM-3-8 Zone. One deviation would allow a ten foot side yard setback adjacent to West Ocean Air Drive where the Land Development Code requires a minimum of ten percent of the lot width or 64 feet. The second deviation would allow a retaining wall in the southeast corner of the site adjacent to Building 8 to be constructed to six feet six inches where the Land Development Code allows two three-foot retaining walls separated by a three foot landscape area.

The proposed development would include the construction of 484 multi-family residential condominium units within eleven buildings. The development would be a combination of podium condominiums to the north and courtyard townhomes to the south. A total of 384 condominium units would be located within six buildings on the northern portion of the site. Each of these buildings would be four stories and approximately 48 feet tall. There would be 144 one-bedroom units, 146 two-bedroom units, and 94 three-bedroom units. The 100 townhomes would be located within five buildings on the southern portion of the site. Each building would be three stories and approximately 36 feet tall. The courtyard units would range from one to three bedrooms. There would be 20 one-bedroom townhomes, 30 two-bedroom townhomes and 50 three-bedroom townhomes.

The project also includes a 1.05 acre park, a recreation center with a fifty foot swimming pool and spa, a recreation building with a community room, two offices, restroom facilities, and several barbeque areas throughout the site. The project proposes approximately 4,000 square feet of neighborhood serving commercial space within Building 1 at the ground level. The retail component would be visible from both Calle Mar de Mariposa and West Ocean Air Drive, and would be accessible to pedestrians from both streets at this intersection.

FISCAL CONSIDERATIONS:

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

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Planning Commission recommended staff's recommendation by unanimous vote of 5:0:0. The Torrey Hills Community Planning Board (Board) voted, on May 18, 2008, 9:3:0. The Board could not support the project as proposed primarily due to the increase in density above that which already exists in the community. The Board motion was a tentative position reserving their opportunity to comment after reviewing the final EIR.

KEY STAKEHOLDERS:

Westbrook Torrey Hills, L.P., a Delaware limited liability company;
Ame Torrey View LLC., a California limited liability company; and
Pacific Centre Carmel Valley, LLC, a California limited liability company, Owners.

Broughton/Anderson/JF

LEGAL DESCRIPTION:

The Torrey Hills VTM project is located within the Torrey Hills Community Planning Area (Lots 1 through 4 of Torrey Hills Unit 19, Map No. 14301) and Marine Corps Air Station Miramar Airport Influence Area.

Staff: John Fisher – (619) 446-5231
Marianne Greene – Deputy City Attorney

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

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

COUNCIL ACTION: (Time duration: 4:36 p.m. – 5:19 p.m.;
5:24 p.m. - 6:28 p.m.)

Testimony in opposition by Robert Randleman, Rob Mullally, Mignon Scherer, Joy Sunyata, Julie Hamilton, Diana Padgett, Paula Abney, Gigi Bainbridge, Jarvis Ross, Bob Wright, Ethan Bier, James Jaconette, Richard Hicks, Richard Kiy and Jay McGuerty.

Testimony in favor by Thomas Blake, Mark Rowson and Janay Kruger.

MOTION BY MADAFFER TO ADOPT THE RESOLUTIONS IN SUBITEMS A AND E; INTRODUCE THE ORDINANCE IN SUBITEM B; AND ADOPT THE RESOLUTIONS AS AMENDED IN SUBITEMS C AND D WITH THE FOLLOWING CONDITIONS: 1) CONTRIBUTE \$1 MILLION IN A SEPARATE INTEREST-EARNING ACCOUNT FOR A FUTURE RECREATION CENTER ON FOUR ACRES OF PARK LAND IN TORREY HILLS; 2) PROVIDE FIVE PERCENT ON-SITE AFFORDABLE HOUSING AND PAY THE REQUIRED REMAINING IN-LIEU FEE AS REQUESTED BY THE CITY'S HOUSING COMMISSION; 3) CONTRIBUTE FUNDS TO THE FIRE DEPARTMENT FOR THE PURCHASE OF A FULLY-EQUIPPED FIRE BRUSH RIG FOR THE USE OF A FIRE STATION THAT SERVES TORREY HILLS; AND 4) RETIRE ALL UNUSED (361) AVERAGE DAILY TRIPS. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



ITEM-335:

Wightman Street Neighborhood Park, Project No. 149112. Appeal of the decision by the Mayor Designee certifying a Mitigated Negative Declaration (MND) for the design and development of the Wightman Street Neighborhood Park. The proposed project site is located at 5024-5050 Wightman Street, east of 50th Street and south of University Avenue. This Appeal applies only to the environmental determination. (City Heights Neighborhood of the Mid-City Communities Plan Area. District 7.)

Matter of the appeal filed by Theresa Quiroz regarding the decision of the Mayor to approve a General Development Plan (GDP) and certify a Mitigated Negative Declaration (MND) for the design and development of the Wightman Street Neighborhood Park on a 0.9 acre parkland located in the Mid-City City Heights area, proposing park amenities such as children's play area with playground equipment, basketball courts, picnic furniture and shade structure, trails and exercise stations, and landscapes. In addition, this project will also include improvements to Auburn Creek for the portion located on site in compliance with the City's Chollas Creek Enhancement Program adopted in 2002 enhancing it to a more natural riparian condition, featuring it as an educational and recreational amenity for the public, and improving drainage flow in the creek channel. The proposed project site is located at 5024-5050 Wightman Street, east of 50th Street and south of University Avenue in the RM-1-3 zone of the City Heights Neighborhood of the Mid-City Community Planning Area. This Appeal applies only to the environmental determination.

(See Report to the City Council No. 08-126 and Mitigated Negative Declaration No. 149112.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2009-384)

DENIED APPEAL AND UPHELD THE
DECISION OF THE MAYOR'S DESIGNEE TO
CERTIFY THE MITIGATED NEGATIVE
DECLARATION, ADOPTED AS
RESOLUTION R-304140

Granting or denying the appeal and upholding or overturning the decision by the Mayor's Designee certifying Mitigated Negative Declaration (MND) No. 149112, and adopting Mitigation Monitoring and Reporting Program (MMRP);

Certifying that the information contained in Mitigated Negative Declaration No. 149112, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.) as amended, and the State Guidelines thereto (California Administrative Code Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the City of San Diego City Council;

That the City of San Diego City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Mitigated Negative Declaration is hereby approved;

That pursuant to California Public Resource Code, Section 21081.6, the City of San Diego City Council hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated herein by reference;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project;

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

Subitem-B: (R-2009-385)

DENIED APPEAL AND GRANTED GENERAL
DEVELOPMENT PLAN, ADOPTED AS
RESOLUTION R-304141

Granting or denying the appeal and approving the General Development Plan associated with Wightman Street Neighborhood Park, Project No. 149112;

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

OTHER RECOMMENDATIONS:

On November 28, 2007, the Colina Del Sol Recreation Council voted unanimously (4-0-0) recommending approval of the Wightman Street Neighborhood Park GDP as presented with one recommendation that the park designers resolve the safety condition presented at the opening of an adjacent drainage culvert box in Wightman Street. This recommendation was incorporated into the GDP and presented to the Park Area Committee (April 9, 2008), Design Review Board (May 14, 2008) and the Park and Recreation Board (July 17, 2008). All groups recommended approval of the GDP as presented.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

This action is an appeal of the environmental determination (Mitigated Negative Declaration No. 149112) which was prepared for the development and construction of a new neighborhood park on an approximately 1-acre City-owned park site.

STAFF RECOMMENDATIONS:

DENY the appeal and **CERTIFY** MND No. 149112; and
APPROVE the General Development Plan.

EXECUTIVE SUMMARY:

This item is an appeal of the environmental determination by the Mayor Designee to approve a General Development Plan (GDP), certify a Mitigated Negative Declaration (MND No. 149112) and adopt a Mitigation, Monitoring and Reporting Program for the design and development of the Wightman Street Neighborhood Park. The project will provide for park amenities such as children's play area with playground equipment, basketball courts, picnic furniture and shade structure, trails and exercise stations, and landscapes. In addition, this project will also include improvements to Auburn Creek for the portion located on site in compliance with the City's Chollas Creek Enhancement Program adopted in 2002, restoring it to a more natural riparian condition, provide other educational and recreational amenities, and improve drainage flow in

the creek channel. The designated park site is located on an approximately 1-acre City-owned parcel at 5024-5050 Wightman Street, east of 50th Street and south of University Avenue in the RM-1-3 zone of the City Heights Neighborhood of the Mid-City Community Planning Area. The designated park site is directly adjacent to the Auburn Branch of Chollas Creek on the north and west and is otherwise surrounded by residential uses. A public park is not identified as a permitted use in the RM-1-3 zone. However, City facilities were intentionally excluded from the Land Development Code (LDC) Permitted Use Tables so that the City would have the flexibility to place them in any City zone. Therefore, a development permit was not required for this project.

The appeal (Attachment 1) of the environmental determination asserts that significant environmental impacts have not been adequately addressed in the Mitigated Negative Declaration, contending that there is a potential for significant impacts on the environment necessitating the preparation of an Environmental Impact Report (EIR) for public health due to sewage and other run-off contaminants based on evidence in the administrative record for a settlement agreement related to the subject property.

Staff disagrees with the appeal and believes Mitigated Negative Declaration No. 149112 considered all potential impacts to the environment and that the Mitigation, Monitoring and Reporting Program (MMRP) provides sufficient mitigation for the proposed project. Furthermore, staff determined that the proposed project is consistent with the City's Stormwater Standards which specifically requires implementation of applicable Best Management Practices (BMPs). Compliance with the City's Municipal Permit would be assured through implementation of project specific BMPs in accordance with the City's Stormwater Regulations. Lastly, the project has been reviewed for compliance with the Chollas Creek Enhancement Plan.

The Mitigated Negative Declaration was prepared, distributed and finalized in accordance with all applicable CEQA guidelines and City of San Diego land use regulations and policies. The environmental analysis focused on all potential impacts associated with the project and determined the appropriate mitigation to reduce potential impacts below a level of significance.

FISCAL CONSIDERATIONS:

All costs are recovered through CIP-29-925.0. Design and construction of the park is currently estimated to be \$3,049,000. The project has been partially funded by Special Park Fee in the amount of \$686,000. If City Council denies the appeal and upholds the Mitigated Negative Declaration, the City will send a revised application to the State of California Parks and Recreation Department requesting that grant number UP-37-002, funded via the Urban Park Act of 2001 in the amount of \$2,363,000, be moved from Fox Canyon Park to Wightman Street Park (Resolution Number R-302498). Pending State approval this project will be fully funded.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On April 2, 2007, the City Council authorized the addition of Wightman Street Park to the FY 2007 CIP program, and the transfer of \$686,000 of Special Park Fee and the request to the State of California to amend the project location in grant contract number UP-37002, Urban Park Act Grant, in the amount of \$2,363,000 from Fox Canyon Park to Wightman Street Park (Resolution No. R-302498).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On November 28, 2007, the Colina Del Sol Recreation Council voted unanimously (4-0-0) recommending approval of the Wightman Street Neighborhood Park GDP as presented with one recommendation that the park designers resolve the safety condition presented at the opening of an adjacent drainage culvert box in Wightman Street. This recommendation was incorporated into the GDP and presented to the Park Area Committee (April 9, 2008), Design Review Board (May 14, 2008) and the Park and Recreation Board (July 17, 2008). All groups recommended approval of the GDP as presented.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

City of San Diego, Engineering & Capital Projects Department (Applicant)
City of San Diego, Park and Recreation Department (Owner/Operator)

Anderson/Broughton

LEGAL DESCRIPTION:

The proposed project site is located at 5024-5050 Wightman Street, east of 50th Street and south of University Avenue within the City Heights Neighborhood of the Mid-City Communities Planning Area.

Staff: Debbie Van Martin – (619) 533-5414
Myra Herrmann – (619) 446-5372
Marianne Greene – Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:37 p.m. – 6:39 p.m.;
6:57 p.m. – 8:20 p.m.)

Testimony in favor by Theresa Quiroz, John Stump, Osman Fatah, Joe Berardini and Kathy Evan-Calderwood.

Testimony in opposition by Jose Lopez, Ted Kozminski and Alfred Ilginis.

MOTION BY MAIENSCHIN TO ADOPT STAFF'S RECOMMENDATION TO DENY THE APPEAL AND CERTIFY THE MITIGATED NEGATIVE DECLARATION; APPROVE THE GENERAL DEVELOPMENT PLAN; ADOPT THE FINDINGS AND THE MITIGATION, MONITORING AND REPORTING PROGRAM; AND DIRECT STAFF TO RETURN TO COUNCIL IN 45 DAYS WITH A REPORT ON AN UPSTREAM PROJECT ANALYSIS. Second by Hueso. Passed by the following vote: Peters-yea, Falconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-recused, Hueso-yea.



ITEM-S500: Revised Council Policy 700-10 Disposition of City-Owned Real Property.

(See Reports to the City Council No. 07-110 and 07-120; Independent Budget Analyst Reports No. 08-93 and 07-67; Current Council Policy 700-10; Current Council Policy 700-10 Strike-Out version; Power Point regarding Council Policy 700-10, dated 7/11/2007; Grubb & Ellis' 1/31/2007, Best Practices Methodology Report; Grubb & Ellis' 6/13/2007, Power Point; and Linda Vista Village S.D. Homeowners Association's 7/10/2007, letter.)

(Continued from the meeting of September 8, 2008, Item 201, at the request of Mayor Sanders, for further review.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-77) ADOPTED WITH DIRECTION AS RESOLUTION R-304142

Amending Council Policy 700-10, "Disposition of City-Owned Property," as set forth in the Council Policy;

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

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 7/11/2007, LU&H voted 4 to 0 to approve the changes to Council Policy 700-10, and to include the following recommendations by the Independent Budget Analyst and Chair Madaffer:

1. Add language in the Policy that requires an economic analysis of lease vs. sale be presented to Council for each property;
2. Require additional City departmental review, including Planning, and Engineering and Capital Projects;
3. Add language that includes City Council in the Government Clearance Process to allow preliminary review by Council staff to comment on "foreseeable uses" of property;
4. Clarify the method of sale language in the enabling resolution or add language that states "possible methods of sale" will be identified in the enabling resolution;
5. Re-number or letter entire Policy for structural consistency;
6. Add a definition and description of the Portfolio Plan at the beginning of the Policy (including both lease and for sale), and add language about requiring an annual Portfolio Plan presentation to the full City Council.
 - a. Suggested language:
 - The Real Estate Assets Department shall prepare and present to the City Council a comprehensive Portfolio Management Plan on an annual basis, with periodic reviews and as-needed updates at City Council Committee. The Portfolio Management Plan shall include an overall review of the City's real estate portfolio (or inventory), an operating plan for corporate property, a disposition plan for surplus property, market research to support anticipated transactions and a request for authority to act within defined parameters (as described in this policy).

- b. The major elements of the portfolio Plan are to include:
 - Property evaluation and characterization of real estate assets
 - Strategy for City occupied real estate
 - Investment portfolio plan (Leases to for profit tenants)
 - Review of not-for-profit leases
 - Disposition Plan for surplus assets
 - Business Case development review
 - Legal document development and review
7. The addition of an exclusionary provision in Section F. “The City reserves the right to exclude from any listing agreement the name of any buyer whose interest in a purchase of the subject property has been made a part of the record prior to the execution of such agreement”;
8. Require Council review in one year for effectiveness of Policy changes.

(Councilmembers Atkins, Young, Madaffer, and Hueso voted yea.)

SUPPORTING INFORMATION:

The proposed revisions to Council Policy 700-10 will provide a framework by which to manage and maximize the City’s real estate assets. The proposed changes will establish practices for the sale and leasing of City property as part of an overall portfolio management plan.

The procedures for sale of City property include:

- A detailed analysis process for determining if a property should be sold.
- Direction through the Government Clearance Process.
- The process by which properties are approved by the City Council for sale at pre-approved minimum prices and methods of sale.
- Marketing process for properties.
- Guidelines for use of Real Estate brokers if appropriate.

A summary of the changes regarding the leasing of City-owned property is as follows:

- The rate of return for leased property will be based on an appraisal that complies with the Uniform Standards of Professional Appraisal Practice (USPAP).
- More specific requirements for the establishment of percentage rents and minimum rents for percentage rate leases.
- Percentage rate adjustment every 10 years to current fair market rents for percentage rate leases.

- Market rate adjustments every 10 years and Consumer Price Index Adjustments in interval terms between market rate adjustments for flat rate leases.
- Rent arbitration process for situations where the City and lessee cannot agree on new rent for a rental period under review.
- Defined Appraisal Assumptions.
- Required analysis of level of capital improvements and economic life expectancy of the development in order to determine length of lease term.
- Clearly defined maximum leasehold financing and refinancing restrictions including a requirement for substantial benefit to the City in refinancing situations.
- Specification that the maintenance to improvements and the costs for utilities are the responsibility of the lessee.
- Requirement that requests for assignment of leasehold interests will be evaluated with the same criteria as new leasehold proposals and may include additional consideration to the City.
- New requirements for lease extensions and renewals based on investment to City property and sound business practices in order to determine the appropriate length of any new term.
- Requirement that agreements provide the City the right to assume ownership of the leasehold improvements at the end of the lease. In the event that the lessee is granted an extension, the City may be compensated by an amount equal to the change in present value attributable to the deferral of the reversionary interest.
- Standard requirement for security deposit for new leases in an amount equivalent to three month's rent.
- Requisite that the City may charge a transaction processing fee in accordance to Administrative Regulation 95.25.

The newly revised Council Policy 700-10 will act as an overarching policy document with respect to the leasing of City-owned property. New or amended sub-policies tailored to the needs of specific tenant groups, such as, Balboa Park, Mission Bay Park, Non-Profit organizations, Agricultural lands, Airports and Telecommunication Sites will follow. In the event of a conflict between the revised Council Policy 700-10 and the tenant specific sub-policy, the sub-policy will prevail.

FISCAL CONSIDERATIONS:

The revisions to Council Policy 700-10 will establish procedures for the sale and leasing of the City's surplus property that will maximize the value of the City's real estate assets.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Presentation to the Rules Committee on April 11, 2007; Presentation to the Land Use and Housing Committee on June 13, 2007; The proposed changes to Council Policy 700-10 were approved 4-0 by the Land Use and Housing Committee on July 11, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Outreach and presentations of the proposed changes were presented in several public forums including the Mission Bay Lessee's Association Meeting, a Lessee meeting, and a Lessee Town Hall Meeting on December 13, 2007.

These meetings included attendees representing all different facets of lessee groups. The proposed changes have been posted on the City's website since June 2007.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The recommended changes to Council Policy 700-10 will enable the City to manage its real estate assets in a more efficient and productive manner that will allow the City to maximize their value.

Barwick/Anderson

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:05 p.m. – 2:25 p.m.)

MOTION BY MADAFFER TO ADOPT STAFF'S RECOMMENDATION WITH THE CLARIFICATION TO INCLUDE H4, REZONING, "CITY LAND SHALL BE CONSIDERED FOR A REZONE" AS SUGGESTED BY COUNCIL MEMBER FRYE. 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-S501: 3953 Centre Tentative Map, Project No. 79752. Appeal of Planning Commission's decision approving an application for a Tentative Map to convert 21 existing residential units to condominiums and a request to waive the requirements to underground existing overhead utilities on a 16,540 square-foot site located at 3953 Centre Street. (Uptown Community Plan Area. District 3.)

Matter of the appeal by the Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation, from the decision by the Planning Commission approving an application for a Tentative Map to convert 21 existing residential units to condominiums and a request to waive the requirements to underground existing overhead utilities on a 16,540 square-foot site located at 3953 Centre Street in the MR-800B Zone of Mid-City Communities Planned District within the Uptown Community Plan.

Should the condominium conversion project be approved, tenants may be required to vacate the premises. No units may be sold in this building unless the conversion is approved by the City and until after a public report is issued by the Department of Real Estate. Each tenant has the exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

If you are an existing tenant within this project, you may have rights to certain benefits as outlined in San Diego Municipal Code Section 144.0503. To learn more information regarding these benefits, please contact the Housing Commission at (619) 578-7580, or find the details on their website at: <http://www.sdhc.net/haotherprog1h.shtml>.

This project was determined to be categorically exempt from the California Environmental Quality Act on August 31, 2005, and the opportunity to appeal that determination ended September 15, 2005.

(TM No. 248795/Waiver of requirement to underground existing overhead utilities.)

(Continued from the meeting of September 9, 2008, Item 355, at the request of Council President Peters, for full Council.)

NOTE: Hearing closed. Testimony taken.

STAFF'S RECOMMENDATION:

Take the following actions: NOTED AND FILED

Granting or denying the appeal and upholding or overturning the decision by the Planning Commission approving Tentative Map No. 248795 and approving the waiver to the requirement to underground existing overhead utilities;

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

OTHER RECOMMENDATIONS:

Planning Commission on June 12, 2008, voted 5-1-1 to approve.

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

The Uptown Planners has recommended denial of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

That the City Council deny these eight project appeals and approve the condominium conversion projects listed on the attached spreadsheet (Attachment 1), in various community plans.

STAFF RECOMMENDATION: DENY the appeals and APPROVE the Tentative Maps for all eight projects, including the Coastal Development Permit for Leilani Bay, PTS 105191.

EXECUTIVE SUMMARY:

This Executive Summary describes eight condominium conversion projects that were approved by the Planning Commission and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 2).

The appeal language is the same for all eight projects included in this group and is not specific to any individual project features, therefore one Executive Summary is provided. Please note these are project appeals not environmental appeals, therefore the environmental issues raised are not relevant to these project appeals.

All of the projects included in this group were determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision has either expired or an appeal of the CEQA exemption has been previously heard and rejected by the City Council.

Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code sections which are not CEQA related and may be addressed through this project appeal. These codes sections and staff's responses are contained below:

SDMC Sections 125.0440(a)-(h): These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempts condo conversions from six of the eight standard Tentative Map findings. Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) apply is incorrect. The two findings that do apply are described below.

SDMC Section 125.0440(b): *"The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code."* All of the condominium projects included in this group have been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although some of the projects do not comply with the current requirements for new construction, they are allowed to maintain their current configuration because no additional units or expansions are proposed and they are considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: *“The decision-maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.”*

All of the condominium projects included in this group have been approved by the Planning Commission, who was the decision-maker required to make this finding. Staff believes the intent of this required finding is to respond to “leapfrog” development and to provide necessary public facilities for additional housing in communities. In this instance there is no net loss or gain of housing units, therefore, staff believes this appeal point is not valid.

SDMC Sections 142.1304 and 142.1305: These sections describe the requirements for approving a variance or waiver from the City’s inclusionary housing requirements. All of the projects in this group would comply with the City’s requirements either by paying an in-lieu fee or by providing onsite affordable housing. None of the projects are requesting a variance or waiver from the inclusionary housing requirements, therefore, these code sections are not relevant to these approved condominium conversion projects.

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

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

All eight condominium projects included in this group have been heard and issued a recommendation from the appropriate Community Planning Group and all of the projects have been approved by the Planning Commission.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Anderson/Broughton

Staff: William Zounes – (619) 687-5942
Karen Heumann – Deputy City Attorney

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

FILE LOCATION: MEET

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

Motion by Atkins to grant the appeal and overturn the decision by the Planning Commission approving the tentative map. Second by Frye. Failed by the following vote. Peters-nay, Faulconer-nay, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-nay.



[ITEM-S502:](#) 4611 Ohio Tentative Map, Project No. 83623. Appeal of the decision by the Planning Commission approving an application for a Tentative Map and a waiver of the requirement to underground the existing overhead utilities, to convert 36 existing residential units to condominiums. (North Park Community Plan Area. District 3.)

Matter of the appeal by Cory J. Briggs, Briggs Law Corporation, filed on behalf of Citizens for Responsible Equitable Environmental Development, regarding the decision of the Planning Commission approving an application for a Tentative Map and a waiver of the requirement to underground the existing overhead utilities, to convert 36 existing residential units to condominiums, on a 0.75-acre site located at 4611 Ohio Street, in the MR-800B Zone of the Mid-City Communities Planned District, within the Greater North Park Community Plan Area.

Should the condominium conversion project be approved, tenants may be required to vacate the premises. No units may be sold in this building unless the conversion is approved by the City and until after a public report is issued by the Department of Real Estate. Each tenant has the exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

If you are an existing tenant within this project, you may have the rights to certain benefits as outlined in San Diego Municipal Code Section 144.0503. To learn more information regarding these benefits, please contact the Housing Commission at (619) 578-7580, or find the details on their website at: <http://www.sdhc.net/haotherprog1h.shtml>.

(Continued from the meeting of September 9, 2008, Item 345, at the request of Council President Peters, for full Council.)

NOTE: Hearing closed. Testimony taken.

STAFF'S RECOMMENDATION:

Take the following actions: NOTED AND FILED

Granting or denying the appeal and granting or denying the Tentative Map No. 263258 including the request to waive the requirement to underground existing overhead utilities, with appropriate findings to support Council action;

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

OTHER RECOMMENDATIONS:

Planning Commission on July 24, 2008, voted 4-2-1 to approve Tentative Map No. 263258; and approve waiver to the requirement to underground existing overhead utilities as presented in Report No. PC-08-094.

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

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

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

That the City Council deny these eight project appeals and approve the condominium conversion projects listed on the attached spreadsheet (Attachment 1), in various community plans.

STAFF RECOMMENDATION:

DENY the appeals and APPROVE the Tentative Maps for all eight projects, including the Coastal Development Permit for Leilani Bay, PTS 105191.

EXECUTIVE SUMMARY:

This Executive Summary describes eight condominium conversion projects that were approved by the Planning Commission and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 2). The appeal language is the same for all eight projects included in this group and is not specific to any individual project features, therefore one Executive Summary is provided. Please note these are project appeals not environmental appeals, therefore the environmental issues raised are not relevant to these project appeals.

All of the projects included in this group were determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision has either expired or an appeal of the CEQA exemption has been previously heard and rejected by the City Council.

Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code sections which are not CEQA related and may be addressed through this project appeal. These codes sections and staff's responses are contained below:

SDMC Sections 125.0440(a)-(h): These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempt's condo conversions from six of the eight standard Tentative Map findings. Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) applies is incorrect. The two findings that do apply are described below.

SDMC Section 125.0440(b): *"The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code."* All of the condominium projects included in this group have been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although some of the projects do not comply with the current requirements for new construction, they are allowed to maintain their current configuration because no additional units or expansions are proposed and they are considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: *"The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources."* All of the condominium projects included in this group have been approved by the Planning Commission, who was the decision maker required to make this finding. Staff believes the intent of this required finding is to respond to "leapfrog" development and to provide necessary public facilities for additional housing in communities. In this instance there is no net loss or gain of housing units, therefore, staff believes this appeal point is not valid. **SDMC Sections 142.1304 and 142.1305:** These sections describe the requirements for approving a variance or waiver from the City's inclusionary housing requirements.

All of the projects in this group would comply with the City's requirements either by paying an in-lieu fee or by providing onsite affordable housing.

None of the projects are requesting a variance or waiver from the inclusionary housing requirements, therefore, these code sections are not relevant to these approved condominium conversion projects.

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

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

All eight condominium projects included in this group have been heard and issued a recommendation from the appropriate Community Planning Group and all of the projects have been approved by the Planning Commission.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

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

Staff: Paul Godwin – (619) 446-5103
Karen Heumann – Deputy City Attorney

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

FILE LOCATION: MEET

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

Motion by Atkins to grant the appeal and overturn the decision by the Planning Commission approving the tentative map. Second by Frye. Failed by the following vote. Peters-nay, Faulconer-nay, Atkins-yea, Young-yea, Maienschein-nay, Frye-yea, Madaffer-nay, Hueso-nay.



ITEM-S503: Reconsideration of 3953 Centre Tentative Map, Project No. 79752. Appeal of Planning Commission's Decision Approving an Application for a Tentative Map to Convert 21 Existing Residential Units to Condominiums and a Request to Waive the Requirements to Underground Existing Overhead Utilities on a 16,540 Square Foot Site Located at 3953 Centre Street. (Uptown Community Plan Area. District 3.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Take the following actions:

Subitem-A: NOTED AND FILED

Waiving the Permanent Rules of City Council, Section 22.0101.5 of the San Diego Municipal Code.

Subitem-B: NOTED AND FILED

Reconsidering the Council action for 3953 Centre Tentative Map, Project No. 79752. Appeal of Planning Commission's decision approving an application for a Tentative Map to convert 21 existing residential units to condominiums and a request to waive the requirements to underground existing overhead utilities on a 16,540 square-foot site located at 3953 Centre Street.

NOTE: If the matter is to be reconsidered, time has been reserved for the item to be heard later in the agenda. (Tuesday, September 16, 2008.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:34 p.m. – 3:38 p.m.)

NOTE: No action required or taken due to the action taken by Council on Item S501 of today's Council Meeting.



ITEM-S504: Reconsideration of 4611 Ohio Tentative Map, Project No. 83623. Appeal of the Decision by the Planning Commission Approving an Application for a Tentative Map and a Waiver of the Requirement to underground the Existing Overhead Utilities, to Condominiums. (North Park Community Plan Area. District 3.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Take the following actions:

Subitem-A: NOTED AND FILED

Waiving the Permanent Rules of City Council, Section 22.0101.5 of the San Diego Municipal Code.

Subitem-B: NOTED AND FILED

Reconsidering the Council action for 4611 Ohio Tentative Map, Project No. 83623. Appeal of the decision by the Planning Commission approving an application for a Tentative Map and waiver of the requirement to underground the existing overhead utilities, to condominiums.

NOTE: If the matter is to be reconsidered, time has been reserved for the item to be heard later in the agenda. (Tuesday, September 16, 2008.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:34 p.m. – 3:38 p.m.)

NOTE: No action required or taken due to the action taken by Council on Item S502 of today's Council Meeting.

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: 2:05 p.m. – 2:05 p.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 8:28 p.m. in honor of the memory of:

Captain Paul Hartley as requested by Council Member Faulconer;
Harvey Goodfriend as requested by Council President Pro Tem Madaffer; and
Doris Perry as requested by Council President Pro Tem Madaffer.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 8:20 p.m. – 8:28 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego