

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, OCTOBER 6, 2008  
AT 2:00 P.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

**Table of Contents**

CHRONOLOGY OF THE MEETING..... 3

ATTENDANCE DURING THE MEETING ..... 3

ITEM-1: ROLL CALL..... 4

ITEM-10: INVOCATION ..... 4

ITEM-20: PLEDGE OF ALLEGIANCE..... 4

CLOSED SESSION ITEMS..... 5

ITEM-150: Consideration of the Port of San Diego Marine Freight Preservation and Bayfront  
Redevelopment Initiative ..... 10

ITEM-151: Amendments to the Election Campaign Control Ordinance and Municipal  
Lobbying Ordinance ..... 11

ITEM-200: Casa del Horizonte. Appeal of the decision of the Historical Resources Board to  
designate as a historical resource the property at 7417-7427 Olivetas Avenue, La  
Jolla, California 92037 ..... 13

ITEM-201: Ocean View Village, Project No. 96580. Site Development Permit, Vesting  
Tentative Map and Rezone to construct 143 residential units, 40 commercial units  
and 24 industrial units, on a 10.4 acre site located at 996 Otay Valley Road..... 15

ITEM-202: Hanalei Hotel. Appeal of the Environmental Determination, requesting a Site  
Development Permit and Planned Development Permit to add a 10,000 square-  
foot meeting facility to the existing hotel ..... 21

ITEM-250: **Notice** of Pending Final Map Approval – 4052 32<sup>nd</sup> Street Condominiums ..... 26

ITEM-251: **Notice** of Pending Final Map Approval – The California ..... 27

REPORT OUT OF CLOSED SESSION ..... 28

NON-DOCKET ITEMS ..... 28

ADJOURNMENT..... 28

**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Council President Peters at 2:06 p.m. Council President Peters recessed the meeting at 3:23 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:28 p.m. with Council Member Maienschein not present. Council President Peters recessed the meeting at 5:10 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 5:15 p.m. with Council Member Maienschein not present. The meeting was adjourned by Council President Peters at 6:20 p.m.

**ATTENDANCE DURING THE MEETING:**

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

FILE LOCATION:            MINUTES



ITEM-1: ROLL CALL

Clerk Maland called the roll:

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

FILE LOCATION: MINUTES



ITEM-10: INVOCATION

Invocation was given by Lora Davis of Clairemont Community of Christ church.

FILE LOCATION: MINUTES



ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Faulconer.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

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

**CS-1 *Insurance Company of the State of Pennsylvania v. City of San Diego*  
*United States District Court Case No. 02CV0693 BEN***

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

EACA Assigned: D. McGrath

In closed session, Executive Assistant City Attorney Don McGrath and outside counsel, Kristine Wilkes and Harvey Levine, will brief the City Council regarding the status of this matter filed in the United States District Court and seek direction regarding settlement of the matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

**CS-2 *Deputy City Attorney Association v. City of San Diego*  
**LA-CE-359****

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

DCA Assigned: A. Hersh

The *Deputy City Attorney Association v. City of San Diego* matter is an action filed by the Deputy City Attorney Association for bad faith bargaining and prematurely declaring an impasse. In closed session, the City Attorney will brief the Mayor and the City Council on the status of this matter and request the continued retention of outside counsel to handle this litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

**CS-3 *Bun Bun Tran, et al. v. City of San Diego, et al.***  
**San Diego Superior Court Case No. 37-2007-00065432-CU-PA-CTL**

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

DCA Assigned: A. Jones

Plaintiff claims personal injuries resulting from an incident at the intersection of Commonwealth Avenue and Juniper Street on November 18, 2006. In closed session, the City Attorney will discuss possible responses to a settlement demand made by Plaintiff.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

**CS-4 *Save Our Heritage Organization v. City of San Diego, Redevelopment Agency of the City of San Diego, et al.***  
**San Diego Superior Court Case No. GIC 865774**

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

CDCA Assigned: H. Carlyle

This case involves a court challenge under the California Environmental Quality Act to the approvals of the Downtown Community Plan, implementing ordinances and Environmental Impact Report. Authority to settle this case will be requested.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

**CS-5 *Todd Sabin, Stacy Sabin, Stephen Games, Sandra Games v. City of San Diego*  
(San Diego Superior Court Case No. 37-2008-00090721-CU-PA-CTL;  
*City of San Diego v. Todd Sabin, et al.*  
San Diego Superior Case No. 37-2008-00081284-CU-OR-CTL)**

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

DCA: Assigned: M. Dickenson

These matters concern certain property owners' encroachments on a City street and a related settlement agreement resulting from prior litigation. The City Attorney will update the Mayor and City Council on the status of the litigation in closed session pursuant to California Government Code Section 5496.9(a).

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

**CS-6 *Hahn v. City of San Diego*  
San Diego Superior Court Case No. GIC 861704 and 37-2008-00078017-CU-IE-CTL  
[consolidated with ]**

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

DCA Assigned: C. Brock

Plaintiff filed a Complaint for damage to her real property, and a separate complaint for inverse condemnation, against the City as a result a broken City drainage pipe in 2005. The City Attorney will present Plaintiff's settlement proposal for both cases to the City Council. The reason and legal authority for the closed session is to discuss the status of pending litigation and settlement offer in the cases entitled *Hahn v. The City of San Diego*, San Diego Superior Court Case Nos. GIC 861704 and 37-2008-00078027. (Government Code Section 54956.9(a).

Closed Session Comment 1:

Brian Gonzalez commented on the litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

**Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code Section 54956.9(b):**

***CS-7 Number of Potential Cases: Up to 50 (Voluntary Compliance Program Filing)***

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

DCA Assigned: W. Chung

In closed session, the Mayor requests that Outside Counsel provide advice relating to the Pension System Changes included in the Voluntary Compliance Program Filing that may affect the pension benefits of employees, retirees and their beneficiaries.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

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

**CS-8 *Number of Potential Cases: 1***

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

CDCAs Assigned: M. Severson and C. Bradley

In closed session, the Mayor will brief the Council on the possible initiation of litigation.

Closed Session Comment 1:

Joy Sunyata commented on the vagueness of the item on the docket.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

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

**CS-9 Agency Negotiator:** Scott Chadwick, Jay Goldstone

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

Employee Organizations: Municipal Employees Association

DCAs Assigned: A. Hersh/B. Gersten

Conference with Labor Negotiators regarding negotiated settlement of language and remedy contained in City-MEA Memorandum of Understanding, Article 22, Section 2.B.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**



ITEM-150: Consideration of the Port of San Diego Marine Freight Preservation and Bayfront Redevelopment Initiative. (Downtown Community Area. District 2.)

(See Initiative Measure to be Submitted Directly to the Voters; Port of San Diego's Save Our Working Waterfront-No on Prop B; San Diego Institute for Policy Research's August 2008, Policy Brief; and Save Our Working Waterfront.)

**TODAY'S ACTIONS ARE:**

Adopt the following resolutions:

Subitem-A: (R-2009-323) NOTED AND FILED

Supporting The Port of San Diego Marine Freight Preservation and Bayfront Redevelopment Initiative.

Subitem-B: (R-2009-324) ADOPTED AS RESOLUTION R-304165

Opposing The Port of San Diego Marine Freight Preservation and Bayfront Redevelopment Initiative.

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

On 9/3/2008, Rules voted 4 to 0 to send this matter to the City Council prior to the November election for consideration without a recommendation. Direction to the City Attorney to prepare resolutions for and against, for Council consideration. (Councilmembers Young, Frye, Madaffer, and Hueso voted yea. Councilmember Peters not present.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:08 p.m. -3:23 p.m.)

MOTION BY HUESO TO NOTE AND FILE THE RESOLUTION IN SUBITEM A AND TO ADOPT THE RESOLUTION IN SUBITEM B. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-yea.



**ITEM-151:** Amendments to the Election Campaign Control Ordinance and Municipal Lobbying Ordinance.

(See memorandum from City Attorney dated 10/1/2008; memorandum from Ethics Commission's dated 8/20/2008; Ethics Commission's Update of Proposed Amendments dated 9/2/2008; and memorandum from Guillermo Cabrera and Stacey Fulhorst dated 9/12/2008.)

**TODAY'S ACTION IS:**

Introduce the following ordinance:

(O-2009-42)                   INTRODUCED AS AMENDED, TO BE ADOPTED  
TUESDAY, OCTOBER 21, 2008

Introduction of an Ordinance amending Chapter 2, Article 7, Division 29 of the San Diego Municipal Code by amending Sections 27.2903, 27.2911, 27.2912, 27.2916, 27.2917, 27.2924, 27.2925, 27.2930, 27.2935, 27.2936, 27.2937, 27.2938, 27.2939, 27.2945, and 27.2960; retitling and amending Sections 27.2965, 27.2966, 27.2967, 27.2968, and 27.2969; and amending Section 27.2971, relating to the City of San Diego Election Campaign Control Ordinance; and amending Chapter 2, Article 7, Division 40 of the San Diego Municipal Code by amending Section 27.4002, relating to Campaign Fundraising Disclosures under the City's Municipal Lobbying Ordinance.

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

On 9/3/2008, Rules voted 5 to 0 to support staff recommendations with change of specific nomenclature to "Professional Expense Fund" from "Legal Defense Fund" to more accurately reflect the use and intent of the fund. Councilmember Young specifically did not support the additional filing requirement due to its onerous nature. (Councilmembers Peters, Young, Frye, Madaffer, and Hueso voted yea.)

**SUPPORTING INFORMATION:**

The proposed amendments to the Municipal Code are reflected in the Ordinance, Strike-Out Ordinance, and City Attorney Digest. The proposed reforms are described in detail in the memo from Guillermo Cabrera and Stacey Fulhorst dated September 9, 2008.

In summary, the amendments would increase the City's contribution limits, add an additional pre-election filing for City candidates, modify the rules governing professional expense committees, modify the telephone communications requirements to maintain consistency with state law and to include calls made by candidates or political committees for polling purposes, and implement a series of housekeeping amendments. Changes to contribution limits in the Election Campaign Control Ordinance necessitate a corresponding change to the fundraising activities disclosure provisions in the Lobbying Ordinance.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Approved by the Rules Committee on June 11, 2008, and September 3, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Public discussion at 10 Ethics Commission Meetings from October of 2007 through August of 2008.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

City candidates, political committees, campaign treasurers, and persons required to register as lobbyists.

Fulhorst

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 4:10 p.m. - 5:10 p.m.)

MOTION BY FRYE TO INTRODUCE THE ORDINANCE AS AMENDED WITH THE EXCEPTION OF CONTRIBUTION LIMITS WHICH WOULD REMAIN AT THE CURRENT LIMITS (WOULD NOT INCREASE LOBBYIST FUNDRAISING DISCLOSURE OR PROFESSIONAL EXPENSE FUND CONTRIBUTION LIMITS.)

Second by Young . Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY FRYE TO ADOPT THE THIRD FILING REPORT

RECOMMENDATION. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-nay.

Motion by Frye not to adopt the increase to campaign contributions recommendation. Second by Young . Failed. Peters-nay, Faulconer-nay, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-nay.

MOTION BY HUESO TO ADOPT THE INCREASE TO THE CONTRIBUTION LIMITS TO \$500 (INCREASING LOBBYIST FUNDRAISING DISCLOSURE OR PROFESSIONAL EXPENSE FUND CONTRIBUTION LIMITS ACCORDINGLY.)

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



ITEM-200: Casa del Horizonte. Appeal of the decision of the Historical Resources Board to designate as a historical resource the property at 7417-7427 Olivetas Avenue, La Jolla, California 92037. (La Jolla Community Plan Area. District 1.)

Matter of the appeal by Gerald Rudick, Managing Member of Olivetas Associates LLC, from the decision of the Historical Resources Board to designate the property located at 7417-7427 Olivetas Avenue, La Jolla, California 92037.

(See Report to the City Council No. 08-132 and Historical Resources Board Report No. 08-009.)

**STAFF'S RECOMMENDATION:**

Take the following actions:

(R-2009- ) APPEAL GRANTED; ADOPTED AS RESOLUTION R-304166

Granting or denying the appeal and upholding or overturning the action of the Historical Resources Board in designating the property at 7417-7427 Olivetas Avenue as a historical resource;

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

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Consider the appeal of the March 27, 2008, decision of the City's Historical Resources Board (HRB) to designate the Casa del Horizonte, located at 7414-7427 Olivetas Avenue, as a historical resource.

**STAFF RECOMMENDATION:**

Deny the appeal and do not reject or modify the historical resource designation of the Casa del Horizonte, located at 7417-7427 Olivetas Avenue.

**EXECUTIVE SUMMARY:**

This item is before the City Council as an appeal of the HRB decision of March 27, 2008, to designate the Casa del Horizonte located at 7417-7427 Olivetas Avenue as a historical resource (HRB #858), with a vote of 9 in favor, 1 opposed, and 0 abstentions. The resource was designated under HRB Criterion A as a special element of La Jolla's historical, cultural, social, economic, aesthetic and architectural development as the only Contemporary style bungalow court in La Jolla; and under HRB Criterion C as a very good example of a post-WWII (1948), Contemporary style bungalow court with high integrity.

The HRB considered all of the information presented to it and in doing so, recognized and validated the compelling arguments that resulted in designation. Since the hearings, there has been no new evidence submitted to refute the designation, no evidence to show that the information the HRB received was wrong, and no evidence presented as to any violations of bylaws or procedures. Therefore, staff recommends that the appeal be denied based on the fact that no material information has been provided in support of the Municipal Code-established findings that the City Council needs to make in order to overturn the decision of the HRB.

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

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

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

A noticed public hearing was held on February 28, 2008, and March 27, 2008. Notices of Public Hearing were sent to the property owner and their representative prior to each hearing before the Historical Resources Board, consistent with Municipal Code requirements. The property owner has been sent public notice of the appeal hearing.

Anderson/McCullough

**LEGAL DESCRIPTION:**

Casa del Horizonte is located at 7417-7427 Olivetas Avenue, San Diego, CA 92037, APN: 350-591-05-00, and is further described as Lots 14-16, Block 2 according to Map 352, located within San Diego's La Jolla Community in the City of San Diego, County of San Diego, State of California.

Staff: Kelley Saunders – (619) 236-6545  
Marianne Greene – Deputy City Attorney

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

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 5:15 p.m. - 5:51 p.m.)

Testimony in favor of the appeal by Jerry Ruddick, Jay Wexler, Scott Moomjin, and Marie Lia.

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



**ITEM-201:** Ocean View Village, Project No. 96580. Site Development Permit, Vesting Tentative Map and Rezone to construct 143 residential units, 40 commercial units and 24 industrial units, on a 10.4 acre site located at 996 Otay Valley Road. (Otay Mesa Community Plan Area. District 8.)

Matter of approving, conditionally approving, modifying or denying a Site Development Permit, Vesting Tentative Map and Rezone to construct 143 residential units, 40 commercial units and 24 industrial units, on a 10.4 acre site located at 996 Otay Valley Road. The Site Development Permit is for Steep Hillside, Sensitive Biological Resources and seven Deviations to development regulations for Affordable Housing. The Vesting Tentative Map is for a subdivision for condominium construction. The site was previously regulated under CUP 88-0498 as an Auto Dismantling Center. The property proposes

redevelopment from this auto dismantling use to the approved land uses. The project was reviewed in the Affordable Housing Expedite Program and will provide 15 of the residential units as affordable in accordance with the Inclusionary Housing Ordinance.

The project is located in the AR-1-1 Zone, Airport Influence Area, and Airport Environs Overlay Zone, of the Otay Mesa Community Plan. The Rezone is to change the AR-1-1 Zone to RM-2-4, CN-1-2 and IL-2-1 in accordance with the adopted Robinhood Ridge Precise Plan and Community Plan.

**STAFF'S RECOMMENDATION:**

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

Subitem-A: (R-2009-315) CONTINUED TO TUESDAY, OCTOBER 14, 2008

Adoption of a Resolution certifying that the information contained in Addendum to Environmental Impact Report No. 98-0189, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a Rezone Ordinance, Site Development Permit, and Vesting Tentative Map for Ocean View Village project;

Declaring that pursuant to California Public Resources Code Section 21081 and California Code of Regulations Section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the Office of the City Clerk;

Declaring that pursuant to California Code of Regulations Section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference, with respect to the project;

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

Subitem-B: (R-2009-316) CONTINUED TO TUESDAY, OCTOBER 14, 2008

Adoption of a Resolution certifying the findings, with respect to Site Development Permit No. 320732, which are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Granting Site Development Permit No. 320732 to Melvyn V. Ingalls, Owner/Permittee, sustaining the recommendation of the Planning Commission, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

Subitem-C: (R-2009-317 Cor. Copy 1) CONTINUED TO TUESDAY,  
OCTOBER 14, 2008

Adoption of a Resolution certifying findings with respect to Vesting Tentative Map No. 314829 which are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Granting Tentative Map No. 314829 to Melvyn V. Ingalls, Applicant/Subdivider, subject to the attached conditions which are made a part of this resolution by this reference.

Subitem-D: (O-2009-41 Cor. Copy) CONTINUED TO TUESDAY,  
OCTOBER 14, 2008

Introduction of an Ordinance changing 10.4 acres located at 996 Otay Valley Road, within the Otay Mesa Community Plan Area, in the City of San Diego, California, from the AR-1-1 zone into the RM-2-4, CN-1-2 and IL-2-1 zones, as defined by the San Diego Municipal Code Sections 131.0406, 131.0502, 131.0603; and repealing Ordinance No. O-10862 (New Series), adopted June 29, 1972, of the ordinances of the City of San Diego insofar as the same conflicts herewith.

**OTHER RECOMMENDATIONS:**

Planning Commission on July 24, 2008, voted 5-1-1 to recommend that the City Council certifies Addendum No. 96580 to Environmental Impact Report No. 98-0189; adopt the Mitigation Monitoring and Reporting Program; and approve Site Development Permit No. 320732, Vesting Tentative Map No. 314829 and Rezone Ordinance No. 314830 as presented in Report No. PC-08-085.

Additional recommendations to provide Photovoltaic Panels for either the Residential or Commercial/Industrial area that would meet the Expedite Program requirements of Council Policy No. 900-14, and provide for a reclaimed water service if a reclaimed water service is available in the future.

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

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

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Approval of a new mixed use development consisting of 143 residential units, 40,678 square feet of commercial, and 37,850 square feet of industrial uses on a 10.4 acre site located at 996 Otay Valley Road, within the Otay Mesa Community planning area.

**STAFF RECOMMENDATION:**

Recommend that the City Council certify Addendum No. 96580 to Environmental Impact Report No. 98-0189, adopt the Mitigation, Monitoring and Reporting Program; and approve Site Development Permit No. 320732, Vesting Tentative Map No. 314829 and Rezone Ordinance No. 314830.

**EXECUTIVE SUMMARY:**

The Ocean View Village project is a request for a Site Development Permit, Vesting Tentative Map and Rezone to construct 143 residential units, 40 commercial units and 24 industrial units on a 10.4 acre site located at 996 Otay Valley Road. The project is located in the AR-1-1 Zone, Airport Influence Area, and Airport Environs Overlay Zone, of the Otay Mesa Community Plan. The Site Development Permit is for Steep Hillside, Sensitive Biological Resources and seven Deviations to development regulations for Affordable Housing. The seven Deviations to

development regulations are being requested as part of the affordable/in-fill housing and sustainable building regulations for setbacks, street frontage, drive aisle driveway width, retaining wall height, off-street loading spaces, and structure height. The Vesting Tentative Map is for a subdivision for condominium construction. The Rezone is to change the AR-1-1 Zone to RM-2-4, CN-1-2 and IL-2-1 in accordance with the adopted Robinhood Ridge Precise Plan and Community Plan. The site was previously regulated under CUP 88-0498 as an Auto Dismantling Center. The property proposes redevelopment from this auto dismantling use to the proposed land uses. The project was reviewed in the Affordable Housing Expedite Program and will provide 15 of the residential units as affordable in accordance with the Inclusionary Housing Ordinance.

The project has not been controversial and there were no speaker slips in opposition at either of the two Planning Commission hearings. The project was docketed for Planning Commission on July 17th and trailed to July 24th. The Planning Commission recommended the City Council require two conditions; 1) provide photovoltaic panels (solar energy) on the roof for either the Residential or Commercial/Industrial area that would meet the Sustainable Expedite Program requirements of Council Policy 900-14, and 2) a condition to provide for a reclaimed water service if a reclaimed water service is available in the future.

The owner/applicant recommends an alternative to both of the Planning Commission conditions. There is no current reclaimed water service to the project area; therefore staff could not condition the project to connect to a reclaimed water service at this time. There are no Municipal Code provisions that require projects to install photovoltaic panels. The applicant has volunteered to provide 10% of the residential units as Affordable Housing. As an alternative to the condition to provide a future reclaimed water service, the owner/applicant agrees to provide this service for landscaping. As an alternative to the condition to provide photovoltaics, the owner/applicant agrees to build the commercial/industrial structures to LEED standards and impose specified sustainable design and development conditions on the residential portion of the project.

**FISCAL CONSIDERATIONS:**

All staff costs associated with processing this project are recovered from a deposit account maintained by the applicant.

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

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

Planning Commission: The Planning Commission recommended the City Council approve the project on July 24, 2008, by a vote of 5-1-1 with two recommendations: 1) The project be required to provide Photovoltaic Panels for either the Residential or Commercial/Industrial area that would meet the Expedite Program requirements of Council Policy 900-14; and 2) Add a Condition to provide for a reclaimed water service if a reclaimed water service is available in the future.

Community Planning Group: The Otay Mesa Community Planning Board voted 13-1-1 on September 20, 2006, to recommend approval of the project, with additional landscape recommendations that were incorporated into the design.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Owner: Melvyn V. Ingalls.

Applicant: M. W. Steele Group, Inc.

Broughton/Anderson/DM

**LEGAL DESCRIPTION:**

The project site is legally described as the southeast quarter of the southwest quarter of the northeast quarter of Section 29, Township 18 South, Range 1 West, San Bernardino Meridian, County of San Diego.

**NOTE:** The City of San Diego, as Lead Agency under California Environmental Quality Act (CEQA) and State CEQA Guidelines has prepared and completed Addendum No. 96580 to Environmental Impact Report No. 98-0189, and the Mitigation, Monitoring and Reporting Program (MMRP) covering this activity.

Staff: Diane Murbach – (619) 446-5042  
Marianne Greene – Deputy City Attorney

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

**FILE LOCATION:** NONE

**COUNCIL ACTION:** (Time duration: 3:28 p.m. - 4:09 p.m.)

Testimony in favor by Mike McDade, Steve Silverman, and Mel Ingalls.

MOTION BY HUESO TO CONTINUE TO TUESDAY, OCTOBER 14, 2008, FOR FURTHER REVIEW. 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-202: Hanalei Hotel. Appeal of the Environmental Determination, requesting a Site Development Permit and Planned Development Permit to add a 10,000 square-foot meeting facility to the existing hotel. (Mission Valley Community Area. District 6.)

Matter of the appeal by Randy Berkman, River Valley Preservation Project (RVPP), Lynn Mulholland, Mission Valley Community Council (MVCC), James A. Pough, San Diego Audubon Society and Evelyn Shively, Sierra Club, of the Planning Commission's decision in approving an application for a Site Development Permit to construct an approximately 10,000 square-foot addition for an exhibit hall on the existing parking area of the Hanalei Hotel at 2270 Hotel Circle.

(See Report to Planning Commission No. PC-08-088/Mitigated Negative Declaration No. 114212/Project No. 114212.)

(Continued from the meeting of September 22, 2008, Item 200, at the request of Councilmember Frye, to allow all appellants to be present.)

**NOTE:** Hearing closed. Testimony taken on 9/22/2008.

**STAFF'S RECOMMENDATION:**

Take the following actions:

(R-2009- )            APPEAL DENIED; ADOPTED AS RESOLUTION  
R-304167

Granting or denying the appeal and upholding or overturning the decision by the Planning Commission certifying Mitigated Negative Declaration (MND) No. 114212, and adopting Mitigation Monitoring and Reporting Program (MMRP);

Certifying that the information contained in Mitigated Negative Declaration No. 114212, 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 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;

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

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

**OTHER RECOMMENDATIONS:**

Planning Commission on July 24, 2008, voted 5-0-2 to deny.

Ayes: Schultz, Naslund, Ontai, Otsuji, Golba

Not present: Griswold, Smiley

The Mission Valley Community Planning Group has recommended approval of this Project.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

This action is an appeal of the environmental determination (Mitigated Negative Declaration No. 114212). The environmental document was prepared for the 10,000 square foot expansion of a conference facility to the Hanalei Hotel Project.

**STAFF RECOMMENDATION:**

**DENY** the appeal and **CERTIFY** MND No. 114212.

**EXECUTIVE SUMMARY:**

This item is an appeal of the environmental determination to prepare a Mitigated Negative Declaration (MND No. 114212) and accompanying Mitigation, Monitoring and Reporting Program for a conference room addition to the existing Hanalei Hotel. All other administrative appeals have been exhausted. The Hearing Officer approved the project and the Planning Commission upheld that decision by unanimously denying the subsequent appeal.

The Hanalei Hotel is requesting a 10,000 square foot expansion of their existing conference facility. The hotel property is located at 2270 Hotel Circle North in the Mission Valley Community Plan area (Attachment 1). The site is directly adjacent to both the Interstate 8 Freeway on the south and the San Diego River on the north. The 9.7 acre site is surrounded by commercial and visitor uses to the east and west within the Valley. The project requires a Site Development Permit because the property is within the floodplain which is identified in the Land Development Code as a Special Flood Hazard Area. The floodplain includes the floodway and the floodway fringe. The proposed addition is within the floodway fringe. The Land Development Code defines the floodplain as Environmentally Sensitive Lands (ESL) and establishes the applicable development regulations and entitlement process for development within the flood plain. The project also requires a Planned Development Permit to implement the applicable provisions of the Atlas Specific Plan. The proposed addition was reviewed by staff in accordance with State and Local regulations, and staff determined the addition to be a minor improvement to the previously developed site.

The appeal of the environmental determination is generally based on the consistency of the project with the Atlas Specific Plan and asserts that significant environmental impacts have not been addressed in the Mitigated Negative Declaration (Attachment 4). The appeal contends required improvements mandated by the Specific Plan have not been implemented. These improvements include the 100-year channelization of the adjacent San Diego River and a requirement that 75% of the project's required off-street parking is located within a parking structure. The appeal also contends that proposed surface parking should not be permitted within the 30 foot river buffer. The appeal further states that the project reviews should have required a traffic study, a site specific cultural resource study and a floodwater displacement study. Lastly, the appeal contends that the project is inconsistent with City Council Policy 600-14: Development within Areas of Special Flood Hazards.

Staff disagrees with the appeal arguments and believes Mitigated Negative Declaration No. 114212 considered all potential impacts to the environment and that the Mitigation, Monitoring and Reporting Program (MMRP) provide the sufficient mitigation for the proposed project.

Staff agrees with both FEMA and the State Water Resource Board, which considers river channelization an outdated method of flood protection. Channelization projects identified within the Atlas Plan will not be implemented with other Mission Valley projects in the future. Regarding the issue of structured parking, staff concluded there is no reasonable nexus between a relatively small improvement (10,000 square feet or 4% of the existing floor area) and the requirement to build a 400 car parking structure. Also, since no rooms are being added to the hotel, the intensity of the land use on the site is not increasing. As for parking within the 30-foot river buffer, staff considers that as an existing condition. The parking area was constructed in the existing configuration as part of the hotel expansion in 1974, while the buffer was placed over the site in 1988, when the Atlas Plan was adopted. No new pavement is proposed with this application and the property owner can re-stripe the existing pavement at will with no permit requirements.

Staff determined that no additional environmental studies were required for traffic, cultural resources and flood displacement as the appeal contends because the thresholds requiring such studies were not met with the minor addition. And finally, staff determined that the proposed noise mitigation outlined within the MND is adequate in that it was developed in coordination with the California Department of Fish and Game and the U.S. Fish and Wildlife Service pursuant to the 1997 Implementing Agreement between the City of San Diego and those agencies.

Lastly, staff determined that the proposed project is consistent with Council Policy 600-14. The policy does not restrict development in the Special Flood Hazard Areas, which includes the floodway fringe, but rather seeks to promote the public health, safety and general welfare, and to minimize public and private losses due to flooding and flood conditions. The project has been reviewed and conditioned for compliance with all FEMA standards for development within the flood plain and no deviations to the Environmentally Sensitive Lands Regulations of the Land Development Code are requested as a part of the project.

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 the proposed project might have on the surrounding community and determined the appropriate mitigation to reduce potential impacts below a level of significance.

**FISCAL CONSIDERATIONS:**

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

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

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

On May 28, 2008, the Hearing Officer approved the project. That decision was appealed and on July 24, 2008, the Planning Commission voted 5-0-2 (Commissioners Griswold and Smiley absent) to deny the appeal and approve the project. On August 1, 2007, the Mission Valley Unified Planning Committee voted 15-1-0 to approve the proposed project as conditioned by the staff.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Dan Weber, Hanalei LLC (Owner) and Janay Kruger, Kruger Development (Applicant)

Broughton/Anderson/PH

**LEGAL DESCRIPTION:**

The project site is located at 2270 Hotel Circle North in the MVPD-MV/-M/SP and the OF-1-1 Zones of within Atlas Specific Plan and the Mission Valley Community Plan Area.

Staff: Patrick Hooper – (619) 557-7992

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

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 5:52 p.m. - 6:13 p.m.)

MOTION BY FRYE TO DENY THE APPEAL AND UPHOLD THE DECISION OF THE PLANNING COMMISSION CERTIFYING THE MITIGATED NEGATIVE DECLARATION NO. 114212 AND ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM WITH FINDINGS AND MITIGATION MEASURES OF PULLING BACK THE RIVER TRAIL TO BE OUTSIDE OF THE FLOODWAY AND TREATMENT FOR THE RUNOFF WILL BE NO LESS THAN 75 PERCENT OF THE TOTAL SITE, AS AGREED ON THE RECORD BY THE APPLICANT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-250: **Notice** of Pending Final Map Approval – 4052 32<sup>nd</sup> Street Condominiums.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "4052 32<sup>nd</sup> Street Condominiums" (T.M. No. 486185/PTS No. 154941), located on the west side of 32<sup>nd</sup> Street between Polk Avenue and Lincoln Avenue in the Greater North Park Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

**ITEM-251: Notice of Pending Final Map Approval – The California.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “The California” (T.M. No. 199717/PTS No. 106901), located on the west side of 29<sup>th</sup> Street between “A” Street and “B” Street in the Greater Golden Hill Community Plan Area in Council District 8, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

**REPORT OUT OF CLOSED SESSION:**

None.

**NON-DOCKET ITEMS:**

None.

**ADJOURNMENT:**

The meeting was adjourned by Council President Peters at 6:20 p.m.

FILE LOCATION:            MINUTES