

THE CITY OF SAN DIEGO, CALIFORNIA
 MINUTES FOR REGULAR COUNCIL MEETING
 OF
 MONDAY, NOVEMBER 10, 2008
 AT 2:00 P.M.
 IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Pro Tem Madaffer at 2:05 p.m. Council President Peters recessed the meeting at 3:32 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:40 p.m. with Council Member Young and Council Member Madaffer not present. Council President Peters recessed the meeting at 5:40 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 5:43 p.m. with Council Member Maienschein not present. Council President Peters recessed the meeting at 6:37 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 6:46 p.m. with Council Member Young and Council Member Maienschein not present. The meeting was adjourned by Council President Peters at 9:05 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-not 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

FILE LOCATION: MINUTES



ITEM-10: INVOCATION

Invocation was given by Kathleen Owens of First Unitarian Universalist Church.

FILE LOCATION: MINUTES



ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Frye.

FILE LOCATION: MINUTES

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Toni Stone commented on false confessions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:10 p.m. - 2:12 p.m.)

PUBLIC COMMENT-2:

Mignon Scherer commented on the proposed closing of community centers and public libraries.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:12 p.m. - 2:14 p.m.)

PUBLIC COMMENT-3:

Jarvis Ross commented on the election results.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:14 p.m. - 2:17 p.m.)

PUBLIC COMMENT-4:

Mel Shapiro commented on the budget.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. -2:19 p.m.)

PUBLIC COMMENT-5:

Jim Schneider and Nevin Kleege commented on San Diego Renewal Community and HR 2578.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:19 p.m. - 2:21 p.m.)

PUBLIC COMMENT-6:

Joy Sunyata commented on budgets.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:24 p.m..)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Referred to the Mayor's office: Council Member Atkins asked when the winter shelter will open and repeated her request for information related to the HUD investigation.

FILE LOCATION: MINUTES

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



ITEM-150: Agreement with Raftelis Financial Consultant, Inc., Related to
Development of Rate Structuring Models.

(See Water Department's and Metropolitan Wastewater Department's 8/28/2008,
Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-448) ADOPTED AS RESOLUTION R-304338

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City,
an Agreement with Consultant not to exceed \$500,000, for the purpose of
securing financial consultant services related to the development of water and
wastewater rate structuring models;

Authorizing the expenditure of an amount not to exceed \$500,000, consisting of
an amount not to exceed \$300,000 from Water Fund 41500, Organization 140,
and an amount not to exceed \$200,000 from Sewer Fund 41509, Organization
495, solely and exclusively, for the purpose of providing funds for the
abovementioned Agreement, its amendments and related costs, provided that the
City Auditor and Comptroller first furnishes one or more certificates certifying
that the funds are, or will be, on deposit with the City Treasurer;

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

Declaring that this activity is not a project and is therefore not subject to the
California Environmental Quality Act (CEQA) pursuant to State CEQA
Guidelines Section 15060(c)(2).

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 9/10/2008, NR&C voted 3 to 0 to forward to the full City Council without a
recommendation. (Councilmembers Peters, Falconer, and Frye voted yea.
Councilmember Atkins not present.)

SUPPORTING INFORMATION:

The Water Department provides retail water service to approximately 1.3 million customers within the City and wholesale water service to several customers such as the Cal American Water Company. The Wastewater Department provides wastewater service to approximately 2.3 million customers within the City and 15 other cities and districts. Currently, each department is identified as a separate entity and each department has a separate, complex rate model in place. However, the City is exploring whether combining common services through re-organization would create opportunities for savings and enhance the services to both external and internal customers. Despite the possible re-organization of these departments, the inputs for calculating equitable rates vary too greatly to develop one model to determine rates for both Water and Wastewater customers.

The development of new rate structuring models would allow for similar system configurations to be established for both models building consistency between the departments and enhance the internal ability of each department to analyze adjustments to critical assumptions such as changes in projected revenue or expenditures, correlating litigation decisions, or anticipated supply shortages in providing pertinent information for guiding fiscal and budgetary decisions. The information provided from these newly developed models will assist in developing a series of proactive actions and potentially minimize the impacts of negative issues such as reduced water supplies while ensuring an equitable allocation of supplies and costs. The models will be sophisticated enough to perform the required complex calculations and still allow for future updates by City staff without the need for extensive training. RFC is currently contracted with the City to review and update the Recycled Water rate model.

It is proposed that RFC, an independent financial consultant, be selected to provide these services. In conjunction with the Purchasing and Contracting Department, it was decided to provide a sole source contract with RFC due to the high priority of developing these types of adjustable models in order to address unfolding environmental and legal issues, and the potential for a significant reduction in the amount of time and cost in order to complete these models. In October 2006 RFC was commissioned by both the Water and Wastewater Departments to conduct a comprehensive cost of service and rate design studies. These studies included the review and interpretation of each Departments' separate rate models, review of each system's revenue requirements, customer classifications, then current cost allocation methods, projected capital improvement programs and their funding sources, and each system's operation and maintenance costs. During the process of completing these studies, RFC gained understanding of the City's current information and billing systems, City policies and procedures, and unique challenges facing each department.

FISCAL CONSIDERATIONS:

The total cost of the contract with RFC will be for an amount not to exceed \$500,000; an amount of not to exceed \$370,000 for professional services related to the identified scope of work and an amount of \$130,000 for additional services including related out-of-pocket expenses (i.e. travel, printing, conference calls, etc.).

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The subject item was presented to the Natural Resource and Culture Committee on September 10, 2008. The Natural Resource and Culture Committee adopted a motion to forward to the full City Council without a recommendation.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

There has been no community participation or public outreach regarding this project.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

The key stakeholders are the City of San Diego, Water Department customers, and Wastewater Department customers.

Ferrier/Ruiz/Barrett

Aud. Cert. 2900261.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:09 p.m. – 5:26 p.m.)

MOTION BY FRYE TO ADOPT WITH DIRECTION THAT A STATUS REPORT BE PROVIDED TO THE NATURAL RESOURCES AND CULTURE COMMITTEE NO LATER THAN MAY OF 2009 . 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-151: City's Fiscal Year 2007 Comprehensive Annual Financial Report (CAFR) and Yellow Book Report.

(See Macias Gini's 11/3/2008, PowerPoint; City Treasurer's 10/30/2008, memorandum; Hawkins Delafield's 10/31/2008, memorandum; SDCER's Commentary on Current Investment Climate, dated 10/13/2008; SDCER's 10/30/2008, letter; Independent Auditor's Report, FY Ended 6/30/2007; Chief Financial Officer's 10/27/2008, Power Point; CAFR Review Questions (Rev. 6/23/2008); and City Attorney's 11/3/2008, letter.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-565 Cor. Copy) ADOPTED AS RESOLUTION R-304339

Receiving and filing the City's Fiscal Year 2007 Comprehensive Annual Financial Report (CAFR).

AUDIT COMMITTEE'S RECOMMENDATION:

On 11/3/2008, Audit voted 3 to 0 to forward to the full City Council with the recommendation to receive and file. (Councilmembers Faulconer, Atkins, and Young voted yea.)

SUPPORTING INFORMATION:

The City received an Audit Opinion from its Independent Auditor Macias Gini & O'Connell LLP dated October 17, 2008, for the 2007 Comprehensive Annual Financial Report, and will be distributing the Yellow Book report as soon as received by Macias Gini & O'Connell.

FISCAL CONSIDERATIONS: None with this action.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The Audit Committee is scheduled to consider these documents for the second time on Monday November 3, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Levin/Lewis

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:44 p.m. – 4:56 p.m.)

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



ITEM-200: 2009 Bonds – Water System (Refunding and New Money). (Citywide.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the ordinance in Subitem A, which was introduced as amended on 10/27/2008, Item 200, Subitem A. (Council voted 7-1. Councilmember Frye voted nay.) Adopt the Resolution in Subitem B:

Subitem-A: (O-2009-48 Cor. Copy) ADOPTED AS O-19806 (NEW SERIES)

Approving the form of, and authorizing the issuance of the Public Facilities Financing Authority of the City of San Diego Water Revenue Bonds, refunding Series 2009A and Series 2009B (payable solely from installment payments secured by Net System Revenues of the Water Utility Fund of the City of San Diego) and approving an indenture and first supplement thereto, approving the form and authorizing the execution and delivery of an Amended and Restated Master Installment Purchase Agreement and 2009A and 2009B Supplements thereto, and approving 2009A and 2009B Continuing Disclosure Certificates relating to Installment Purchase financings, authorizing the City Attorney to appoint bond counsel and disclosure counsel, and approving certain other agreements and actions in connection therewith.

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

Subitem-B: (R-2009-566) ADOPTED AS RESOLUTION R-304340

Declaring that a previous version of this Resolution (R-2009-435), was erroneously recorded as “approved” following a discussion of the Preliminary Official Statement submitted to the City Council at its October 27, 2008, meeting; determining that Resolution (R-2009-435) adopted as R-304305, is hereby nullified;

Adoption of a Resolution approving the form of a Preliminary Official Statement relating to an issue of Water Revenue Bonds, Refunding Series 2009A (Payable Solely from Installment Payments Secured by Net System Revenues of the Water Utility Fund of the City of San Diego) and a 2009A Bond Purchase Agreement, and taking and approving certain other actions in connection therewith.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:00 p.m. - 5:07 p.m.)

MOTION BY FAULCONER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE IN SUBITEM A AND ADOPT THE RESOLUTION IN SUBITEM B. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-nay, Madaffer-yea, Hueso-yea.



ITEM-201: Approval of the 2009 Legislative Calendar and FY 2010 Budget Adoption Calendar.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Take the following actions:

(R-2009-640) ADOPTED AS RESOLUTION R-304341

Adopting the schedule of meetings for the City Council and Standing Committees of the City Council for the period of January 1, 2009 – December 31, 2009;

Adopting the FY 2010 Budget Adoption Calendar;

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

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:03 p.m. – 9:03 p.m.)

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



ITEM-202: Amendments to the City's Emergency Water Regulations.

(See Report to the City Council No. 08-162.)

STAFF'S RECOMMENDATION:

Take the following actions:

(O-2009-59) INTRODUCED, TO BE ADOPTED TUESDAY,
DECEMBER 2, 2008

Amending Chapter 6, Article 7 of the San Diego Municipal Code by amending Division 38, Sections 67.3801-67.3811 Emergency Water Regulations;

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

STAFF SUPPORTING INFORMATION:

The proposed amendments to the City's Municipal Code, Sections 67.3801-67.3811, Emergency Water Regulations are being recommended in order to improve the City's demand response program in the event of a water supply shortage, and to provide greater consistency with the Model Drought Response Conservation Program Ordinance recently approved by the San Diego County Water Authority.

The Water Department has reviewed the elements encompassed within the Model Ordinance and has considered the impact on customers of the various proposed behavioral restrictions, enforcement mechanisms, and appeal process contained therein. As a result, the water department is proposing various language changes and behavioral restrictions in the use of water should demands exceed available supply. The more significant changes, elaborated in detail in the accompanying staff report, are:

- The establishment of year-round water waste prohibitions;
- The establishment of specific demand reduction targets for each drought response level;
- The ability of the City to establish water use allocations for individual customers and properties;
- A restriction in the issuance of new meters at a drought response Level 3 and 30% demand reduction requirement unless specific criteria are met, or an offset in water demand is provided; and
- The ability of customers to apply for a “hardship variance” from the restrictions imposed in the proposed ordinance, provided certain findings can be established.

FISCAL CONSIDERATIONS:

None with this action. Implementation of drought response levels will require additional Water Department resources in order to achieve a given level of compliance. The extent of this resource requirement is not known at this time but will be identified as part on any mandatory water restriction or water allocations recommended by the Mayor and approved by City Council.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Mayor’s Office has held community meetings in each Council District to discuss water supply issues impacting the City of San Diego and to discuss general provision of the proposed new water restrictions. Similar meetings have been held with members of the business community and the largest water consumers. Additional public education will occur upon approval of any changes in the existing Municipal Code.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The implementation of the proposed revisions to the City’s Emergency Water Regulations will affect all City of San Diego water customers.

Ruiz/Barrett

Staff: Alex Ruiz - (619) 533-6692

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 5:43 p.m. - 6:34 p.m.)

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



ITEM-203: San Diego Regional Enterprise Zone Application. (College Area, City Heights, North Park, Logan Heights, Barrio Logan, Sherman Heights, Stockton, Southcrest, Mountain View, Mt. Hope, Shelltown, Lincoln Park, Valencia Park, Chollas View, San Ysidro, Otay Mesa-Nestor, Otay Mesa, and Centre City East Community Areas. Districts 3, 4, 7, and 8.)

(See Reports to the City Council No. 08-161 and 06-112.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-466) ADOPTED AS AMENDED AS RESOLUTION R-304342

Declaring that the areas to be included in the boundary modification meet the following specific circumstances required by HCD:

- 1) An area was previously in an expired Enterprise Zone (EZ) and the benefits of the program are still needed in order to complete revitalization efforts; or
- 2) The census tract/blocks comply with HCD's eligibility criteria; and
- 3) The area does not exceed 5% of the EZ application area; and
- 4) Areas for consideration must be contiguous; and
- 5) The area meets the City's stated EZ strategic plan as submitted in the original application; and
- 6) The boundary modification is approved by resolution by the jurisdictions' governing bodies.

Authorizing the Mayor to submit the application to HCD modifying the boundaries of the SDREZ prior to final designation by HCD in accordance with Exhibits A and B attached to the Report.

STAFF SUPPORTING INFORMATION:

The City of San Diego previously received approval for two enterprise zone (EZ) designations, the Metro EZ (1986) and the South Bay EZ (1992). The Metro Enterprise Zone expired on October 14, 2006, and the South Bay Enterprise Zone expired on January 27, 2007. On August 15, 2006, the City Council approved a Resolution (R-301845) authorizing submission of an application to the California Housing and Community Development Department (HCD) for a regional EZ designation, the San Diego Regional Enterprise Zone (SDREZ), for the Cities of San Diego, Chula Vista and National City (“SDREZ Partners”). The process for EZ designation is competitive and based on economic need (distressed communities, lack of private investment, job creation needs, high unemployment, and/or poverty) and must include a realistic and ambitious EZ program marketing and job development strategies and a solid implementation plan. Council certified the Final Environmental Impact Report and approved a Resolution (R-304082, adopted September 10, 2008) authorizing staff to submit documentation to establish a targeted employment area (TEA) to the State Housing and Community Development Department (HCD).

DISCUSSION:

Prior to obtaining final designation of a conditional EZ designation, HCD is accepting boundary modification requests pursuant to certain conditions. See concurrently submitted Report to Council for detailed discussion regarding required conditions. The designation date for boundary modification is the same as the conditionally approved EZ. For the SDREZ the designation date is October 15, 2006. Therefore, businesses may take advantage of EZ incentives retroactive to the date of designation. At the City Council hearing on September 8, 2008, Council directed staff to do an analysis of specific areas to determine qualification for EZ status per the aforementioned conditions and requested that the City submit a boundary modification request if additional areas qualified for inclusion in the boundary modification. Per City Council direction as well as input from various stakeholders, staff has identified several areas complying with HCD’s boundary modification requirements. These areas are identified in Attachment A. Resolutions from the SDREZ’s municipal partners must also be obtained and included in the request to HCD for the boundary modification. Areas not within the EZ may still benefit from the designation in the following manner:

- 1) Employees, regardless of residency, employed by an EZ company may qualify for the EZ Personal Income Tax Credit depending on household income.
- 2) EZ companies can apply for an EZ Hiring Credit Voucher for each employee residing in the Targeted Employment Areas (TEA). On September 8, 2008, Council authorized staff (R-304082) to submit documentation to establish a new TEA encompassing census tracts with a population of at least 51% earning less than the County’s median wage.

- 3) Properties zoned commercial or industrial meeting the City's stated EZ strategic plan as submitted in the original application can be included through an EZ expansion at a later date and after receiving final designation. See concurrently submitted Report to Council for detailed discussion regarding required conditions.

Modifying the SDREZ boundaries to include areas previously in the expired EZ gives San Diego a medium to continue to be competitive with other major metropolitan areas in the state by offering business incentives to assist existing employers and attract new ones to the region. The next step in this process is for the municipal "SDREZ Partners" to approve by resolution the boundary modification as shown in Attachment A and submit the request and documentation to HCD for approval.

FISCAL CONSIDERATIONS:

There will be ongoing staff time required to administer the SDREZ during the designation period. However, this action has no additional administrative or fiscal impact to the existing SDREZ program.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On August 8, 2006, City Council authorized the Mayor, or his designee, to execute and submit the required documentation to HCD for review and approval of a new EZ designation via Resolution R-301845. City Council certified the Environmental Impact Report (EIR), No. 134663, and authorized the Mayor to submit documents to establish a Targeted Employment Area (TEA) on September 8, 2008, via Resolution R-304082, adopted September 10, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

See Report to City Council No. 06-112.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

There are no key stakeholders. Projected impacts for the SDREZ are new private investments and the creation and retention of jobs in the San Diego region.

Moreno/Anderson

Staff: Lydia Moreno - (619) 236-6320

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:36 p.m. – 5:32 p.m.)

MOTION BY FAULCONER TO ADOPT AS AMENDED BY INCLUDING THE NORTHEAST CORNER OF UNION STREET AND WEST CEDAR IN ATTACHMENT A. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-204: Two actions related to North University City Public Facilities Financing Plan and Facilities Benefit Assessment Fiscal Year 2009. Approving the document entitled “North University City Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2009, November 2008.” And a Resolution of Intention to designate an area of benefit in North University City and setting the time and place for holding a public hearing thereon. (North University City Community Plan Area. District 1.)

(See Report to the City Council No. 08-160; North University City Public Facilities Financing Plan and Facilities Benefit Assessment DRAFT Fiscal Year 2009, November 2008.)

NOTE: Public Hearing will be held on December 5, 2008.

STAFF’S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2009-536) ADOPTED AS RESOLUTON R-304343

Resolution of the Council of the City of San Diego approving the North University City Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2009.

Subitem-B: (R-2009-537) ADOPTED AS RESOLUTION R-304344

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

OTHER RECOMMENDATIONS:

The North University City Planning Group (UCPG) on March 11, 2008, voted (12-1-1) in support of the April 2008 version of the financing plan with qualifications.

SUPPORTING INFORMATION:

REQUESTED ACTION:

1) Approve the North University City Public Facilities Financing Plan – Fiscal Year 2009; 2) Adopt a Resolution of Intention to designate an area of benefit for a Facilities Benefit Assessment (FBA) in North University City; 3) Adopt a Resolution of Designation for the FBA in North University City; 4) Approve the setting of Development Impact Fees (DIF) consistent with the FBA in North University City for those developments which have never been assessed or otherwise agreed to pay an FBA; and 5) Authorize the City Auditor and Comptroller to modify individual Capital Improvement Project Program budgets to reflect this plan.

STAFF RECOMMENDATION: Approve the North University City Public Facilities Financing Plan - Fiscal Year 2009; rescind the existing Facilities Benefit Assessments and Development Impact Fees (Attachment #2) and establish new Facilities Benefit Assessment and Development Impact Fees for the North University Community.

EXECUTIVE SUMMARY: The proposed FY 2009 PFFP (Attachment #1) details the public facilities that will be needed through the ultimate development of North University City at full community development, currently estimated to be the year 2015. This plan includes the Westfield University Town Centre (UTC) Development project approved by Council on July 29, 2009.

The proposed financing plan includes the addition of approximately \$28 million in FBA funding as a result of construction and material cost increases, project delays, and the addition of new projects. New projects include an expanded transit center at UTC, a joint use park at University City High School, and two new fire stations, only one of which is funded with FBA at this time. City Staff and the UCPG FBA subcommittee's review of the development schedule resulted in a decrease in anticipated development (ADTs), primarily due to the removal of parcels that have no further development rights. The combination of increasing project costs, additional projects, reduction of anticipated ADTs, and reduced revenue due to the downturn in the economy has necessitated an increase of 5% in the assessment rate. Changes that offset potential increases to the fee include replacing FBA funding with Transnet and deferring construction timing assumptions of some facilities.

The following changes are proposed for the assessments of FY 2009:

Land Use	FY 2009 Assessment	Proposed FY 2009 Assessment
Single Family Unit	\$18,581	\$19,510
Multi-Family Unit	\$13,007	\$13,658
Commercial ADTs	\$1,251	\$1,314

FISCAL CONSIDERATIONS:

Adoption of the designated area of benefit will continue to provide a funding source for the public facilities identified in the North University City Public Facilities Financing Plan FY 2009.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The September 2008 version of the plan incorporating the Westfield/UTC expansion was presented to the UCPG at their September 9, 2008 meeting (please refer to Attachment #4 for more detail). The UCPG approved the April 2008 version of the PFFP by a vote of 12-1-1, with the following caveats (please refer to Attachment #3 for staff response to the motions):

1. The \$7.7 million appropriation for the Regents Road Bridge project for FY 2009 must be moved to FY 2010.
2. The Limited Roadway Changes (included in Project NUC-18B in financing plan) should not be fully funded with FBA funds.
3. The \$4 million for improvements in Rose Canyon should be separated from NUC-18.
4. Construction of the new fire station should be moved from FY 2013-2014 to FY 2010.
5. In conformance with the community plan amendment, a second fire station should be added to the financing plan and should be funded no later than FY 2012.

This current version of the plan, dated November 2008, will be provided to the group prior to the Council hearing scheduled on November 10, 2008.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

All property owners with remaining new development are listed on the draft North University City Assessment Roll, beginning on page 163. These property owners will be mailed a notice of the public hearing and a copy of the financing plan. The owners will have liens placed upon their property and will be required to pay an FBA upon any building permit issuance. Redevelopment that increases the intensity of existing uses may be subject to an impact fee.

Anderson/Gabriel

NOTE: This plan is a financing measure and is exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

Staff: Cheryl M. Robinson – (619) 533-3679
Jana Garmo– Deputy City Attorney

FILE LOCATION: FB-1 2009 (33)

COUNCIL ACTION: (Time duration: 4:59 p.m. – 5:00 p.m.)

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



ITEM-205: Authorizing Continued Agreement with Paul Plevin Sullivan &
Connaughton, LLP for Legal Services Regarding *James M. Chapin and Penny L.
Castleman v. Office of the City Attorney, City of San Diego.*

CITY ATTORNEY’S RECOMMENDATION:

Adopt the following resolution:

(R-2009-401) ADOPTED AS RESOLUTION R-304345

Authorizing the City Attorney to continue the Contract with Paul Plevin Sullivan & Connaughton, LLP for outside counsel services for an additional amount not to exceed \$150,000 to defend any and all claims by *James M. Chapin and Penny L. Castleman v. Office of the City Attorney, City of San Diego;*

Authorizing the City Comptroller to expend up to \$150,000 from the Public Liability Fund.

SUPPORTING INFORMATION:

On or about October 6, 2005, James M. Chapin and Penny L. Castleman filed a complaint for wrongful constructive termination in Federal District Court. The City needed outside legal counsel to represent the City in the case titled *Chapin and Castleman v. Aguirre and City of San Diego* because the parties are former City employees and the complaint arises out of the actions allegedly taken by the City Attorney's Office and the City of San Diego. Paul Plevin Sullivan & Connaughton, LLP, has been identified as the firm best able to provide the necessary services within the required time frame.

For the defense against Penny L. Castleman initial representation was authorized for up to \$100,000 and has been paid from Contract No. C-13218 filed with the Office of the City Clerk on March 24, 2005.

For the defense against James M. Chapin initial representation was authorized for up to \$100,000 and has been paid from Contract No. C-13318 filed with the Office of the City Clerk on June 27, 2005.

Representation costs to date have been approximately \$254,000, of which approximately \$54,000 is currently outstanding and payable.

FISCAL CONSIDERATIONS:

Authorize an additional amount of up to \$150,000 to be paid from the Public Liability Fund, for a cumulative cost not to exceed \$350,000.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On September 16, 2008, the City Council in Closed Session on Item CS-6, heard an update of Chapin and Castleman v. Aguirre and City of San Diego, et al., Federal District Court Case No. 05CV1906 R (POR) and approved the case strategy and the continued retention of outside counsel. The motion was made by Council President Peters and the second by Council President Pro Tem Madaffer. The motion passed 7 to 1 with Councilmember Hueso voting "No".

On January 15, 2008, the City Council in Closed Session, Item CS-4, heard a settlement offer by the Plaintiff. The offer was rejected.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Paul Plevin Sullivan & Connaughton, LLP

Tomanek

Aud. Cert. 2900308.

FILE LOCATION: MEET

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

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



ITEM-206: Retention of Lynberg and Watkins for Legal Services for the Case *Pablo Gomez v. The City of San Diego, et al., Superior Court Case No. GIC 877892.*

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-482) ADOPTED AS RESOLUTION R-304346

Authorizing the City Attorney to enter into a contract with Lynberg & Watkins, for co-counsel services for an amount not to exceed \$500,000;

Authorizing the City Attorney to retain Lynberg & Watkins for the provision of legal services in *Pablo Gomez v. City et al., Case No. GIC 877892;*

Authorizing the City Comptroller to expend up to \$500,000 from the Public Liability fund on this matter.

SUPPORTING INFORMATION:

\$500,000 is being requested for this matter. Plaintiff alleges he sustained injuries at the hands of a police officer on June 29, 2006. Plaintiff filed his lawsuit on January 4, 2007.

The City's insurance carrier requested that the City add co-counsel in this litigation.

Lynberg & Watkins LLP tried this case to a jury who found for the Plaintiff.

FISCAL CONSIDERATIONS:

The City shall compensate Lynberg & Watkins LLP based on its hourly rates for consulting services. This Request has a not-to-exceed amount of \$500,000 and will be borne by the Public Liability Fund.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This is the initial request of Council for approval of services for the above-listed matter.

In the Closed Session Meeting of September 9, 2008, Item CS-2, the City Council heard a status report of this case. No motion was made.

In the Closed Session Meeting of May 27, 2008, Item CS-2, the City Council heard a status report of this case. No motion was made.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Lynberg & Watkins LLP

Tomanek

Aud. Cert. 2900310.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 9:03 p.m. – 9:04 p.m.)

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



[ITEM-207:](#) San Diego Facilities and Equipment Leasing Corporation 2008 Bylaws.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-153) CONTINUED TO MONDAY, NOVEMBER 17, 2008

Declaring that the Original Bylaws are ineffective and of no further force and effect, and approving the 2008 Bylaws. The 2008 Bylaws shall, immediately upon the effective date of this Resolution, govern the operations of the Corporation for all purposes and the Corporation shall, at all meetings and in connection with all corporate actions taken after such effective date, operate pursuant to the provisions of the 2008 Bylaws;

Declaring that a copy of the 2008 Bylaws shall be filed by the City Clerk of the City with the California Secretary of State, together with a certified copy of this Resolution.

SUPPORTING INFORMATION:

The San Diego Facilities and Equipment Leasing Corporation, a California nonprofit charitable corporation ("Corporation"), was formed in 1998 to assist in the financing, acquisition, construction and improvement of certain capital facilities improvements for the City of San Diego ("City"). The City, as the sole Member of the Corporation, retained the power to amend the Corporation's Bylaws through the City Council. Those Bylaws originally contained cumbersome procedures, nonfunctional committees and audit requirements inconsistent with current law and practice. The original methodology for filling vacancies on the Board of the Corporation, for example, was described in two conflicting ways within the Bylaws; in one place, the Directors served ex officio during the term of their City position (City Attorney, City Auditor and City Manager), while in another, two remaining Directors were authorized to pick a third. The City Attorney's Office retained the Law Firm of Fulbright & Jaworski L.L.P. to represent the Corporation and the attached revised new 2008 Bylaws are their recommendation to bring the Corporation into compliance with the Corporations Code and City practice and to clarify the application of the Brown Act to the Corporation's meetings.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

OTHER RECOMMENDATIONS:

None. The proposed changes to the Corporation's Bylaws are not subject to the review or approval of the Corporation's Board.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): None.

Epley

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 9:04 p.m. – 9:05 p.m.)

MOTION BY FRYE TO CONTINUE TO MONDAY, NOVEMBER 17, 2008, TO ALLOW MORE TIME. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-not present, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-208: Nominations to the San Diego Unified Port District Board of Commissioners.

(See memorandum from Councilmembers Atkins and Hueso dated 10/21/2008; memorandum from Council President Pro Tem Madaffer, and Councilmembers Atkins and Faulconer dated 10/15/2008; and memorandum from Councilmember Young dated 10/14/2008.)

COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:

Take the following actions:

(R-2009-647) ADOPTED AS RESOLUTION R-304347

Council is asked to select two candidates being considered for reappointment and appointment for two terms ending on January 2, 2013. Commissioner Sylvia Rios

is not seeking reappointment. Commissioner Laurie J. Black is seeking reappointment:

- Laurie J. Black (Bankers Hill) nominated for reappointment by Council President Pro Tem Jim Madaffer, and Councilmembers Toni Atkins and Kevin Faulconer, for a term ending January 2, 2013.
- Robert A. McNeely (Point Loma) nominated for appointment by Councilmember Anthony Young, for a term ending January 2, 2013.
- Scott H. Peters (La Jolla) nominated for appointment by Councilmembers Toni Atkins and Ben Hueso, for a term ending January 2, 2013.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:24 p.m. – 3:32 p.m.)

Motion by Frye to continue to January 12, 2009, to allow the new Council Members to vote. Second by Young. Failed. Yeas-4, 6; Nays-2, 3, 5, 7, 8; Recused-1.

Motion to appoint Robert A. McNeely to the San Diego Unified Port Commission. Failed. Yeas-4, 5, 6, 8; Nays-2, 3, 7; Recused-1.

MOTION TO REAPPOINT LAURIE J. BLACK TO THE SAN DIEGO UNIFIED PORT COMMISSION. Passed by the following vote: Peters-recused, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-nay, Frye-yea, Madaffer-yea, Hueso-nay.

MOTION TO APPOINT SCOTT PETERS TO THE SAN DIEGO UNIFIED PORT COMMISSION. Passed by the following vote: Peters-recused, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



[ITEM-209:](#) Declaring a Continued State of Emergency Regarding the Wildfires.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-42) ADOPTED AS RESOLUTION R-304348

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: 3:43 p.m. – 3:43 p.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-210: 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-2009-60) ADOPTED AS RESOLUTION R-304349

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: 9:02 p.m. – 9:02 p.m.)

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

ITEM-211: 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-2009-4) ADOPTED AS RESOLUTION R-304350

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: 9:02 p.m. – 9:02 p.m.)

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

ITEM-212: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-12) ADOPTED AS RESOLUTION R-304351

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: 9:03 p.m. – 9:03 p.m.)

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



ITEM-213: Sycamore Landfill Master Plan. Project No. 5617. Request for a Community Plan/General Plan Amendment, Rezone from AR-1-2 and RS-1-8 to IH-2-1, Lot Consolidation Parcel Map, Easement and Street Vacations, Planned Development with deviations to development regulations and Site Development Permit for Environmentally Sensitive Lands for the Sycamore Landfill Master Plan at 8514 Mast Boulevard. (East Elliot Community Plan Area. District 7.)

Matter of approving, conditionally approving, modifying, or denying a Community Plan/General Plan Amendment, Rezone from AR-1-2 and RS-1-8 to IH-2-1, Lot Consolidation Parcel Map, Easement and Street Vacations, Planned Development with deviations to development regulations and Site Development Permit for Environmentally Sensitive Lands for the Sycamore Landfill Master Plan at 8514 Mast Boulevard in the East Elliott Community Plan, Mission Trails Design District. The project would redesignate approximately 26 acres from Residential to Landfill uses for continued and future landfill operations and aggregate extraction and processing facility, and to change the hours of operations to allow landfill activities twenty-four hours a day. Additional operational changes proposed at the Sycamore Landfill include an increase in the daily tonnage of waste received and the volume of traffic allowed on a daily basis. A proposed height increase would expand the site's capacity. The project would rezone the landfill site from AR-1-2 and RS-1-8 to IH-2-1, vacate both numbered and unnumbered easements, vacate and convey road easements acquired by Caltrans and a Planned Development Permit and Site Development Permit amending prior entitlements on the property. EIR No. 5617, SCH No. 2003041057.

*** Unless otherwise noticed or stated on the record at the hearing, if an ordinance is approved and introduced by the City Council, it will automatically be scheduled for a hearing by the City Council for final passage at 10:00 a.m. on the Tuesday two weeks after the subject hearing.**

(FEIR Project No. 5617/Findings and Statement of Overriding Considerations/MMRP/GPA and CPA No. 9917/Public R-O-W Vacations No. 534709 and Easement Vacations No. 534708 on Parcel Map No. 534711/R-O-W Vacation No. 534709 on a Portion of Map No. 1703/SDP No. 9310/PDP No. 9309/RZ No. 534712/Conveying Vacated Access Road Easement to the Applicant.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions and introduce the ordinance:

Subitem-A: (R-2009-493) ADOPTED AS AMENDED AS RESOLUTION R-304352

Certifying that the information contained in Environmental Impact Report No. 5617/SCH No. 2003041057, 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 Administration 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 Council;

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 (Exhibit A) and incorporated herein by reference;

That pursuant to California Administrative Code section 15093, the City Council hereby adopts the Statement of Overriding Considerations, a copy of which is attached hereto (Exhibit A) and incorporated herein by reference;

That pursuant to California Public Resources Code section 21081.6, the 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 (Exhibit B) and incorporated herein by reference;

That Environmental Impact Report No. 5617/SCH No. 2003041057, a copy of which is on file in the Office of the City Clerk, is hereby approved;

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-2009-492) ADOPTED AS RESOLUTION R-304353

Approving amendments to the East Elliot Community Plan and General Plan in connection with the Sycamore Landfill Master Plan Project (Project No. 5617).

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

Subitem-C: (R-2009-490) ADOPTED AS RESOLUTION R-304354

Authorizing the vacation and abandonment of Public Rights-of-Way and Easements in connection with the Sycamore Landfill Master Plan Project (Project No. 5617);

Certifying findings with respect to each public right-of-way;

Certifying findings with respect to each public service easement;

Authorizing and directing the City Clerk to endorse upon the MAP, as and for the act of the Council, and that the Council has approved the MAP on behalf of the public as stated in this resolution;

Directing the City Clerk to transmit the MAP to the County Recorder of the County of San Diego, California, for recordation.

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

Subitem-D: (R-2009-491) ADOPTED AS RESOLUTION R-304355

Authorizing the vacation of Public Right-of-Way in connection with the Sycamore Landfill Master Plan Project (Project No. 5617);

Certifying findings with respect to each public right-of-way;

Ordering vacated the unnamed street, as more particularly described in the legal description (attached hereto as "Exhibit A" and incorporated herein) and as more particularly shown of Drawing No. 20899-B (Attached hereto as "Exhibit B" and incorporated herein);

That said street vacation is conditioned upon approval and issuance of Site Development Permit No. 9310 and Planned Development Permit No. 9309;

That the City Clerk shall cause a certified copy of the resolution, with attached exhibits, attested by her under seal, to be recorded in the Office of the County Recorder.

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

Subitem-E: (R-2009-489) ADOPTED AS AMENDED AS RESOLUTION R-304356

Granting Site Development Permit No. 9310 and Planned Development Permit No. 9309, amending Development Permit Nos. 40-0765, 6066-PC, and amending 6066-PC Amendments 1 & 2 for the Sycamore Landfill Master Plan, Project No. 5617.

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

Subitem-F: (R-2009-55) INTRODUCED, TO BE ADOPTED TUESDAY,
DECEMBER 2, 2008

Changing 517 acres located at 8514 Mast Boulevard, within the East Elliot Community Plan Area, in the City of San Diego, California, from the AR-1-2 and RS-1-8 Zones into the IH-2-1 Zone, as defined by San Diego Municipal Code Section 131.0604 and repealing Ordinance No. 10864 (New Series), adopted June 29, 1972, of the ordinances of the City of San Diego insofar as the same conflict herewith.

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

NOTE: Subitem F is not subject to the Mayor's veto.

Subitem-G: (R-2009-651) ADOPTED AS RESOLUTION R-304357

Authorizing the conveyance of the vacated access road easement from the City of San Diego to Sycamore Landfill, Inc.;

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

OTHER RECOMMENDATIONS:

Planning Commission on October 23, 2008, voted 4-0-3 to deny Staff Recommendations with the knowledge that the Planning Commission voted in that manner to send the project on to Council for decision. An earlier vote to approve Staff Recommendations failed by a vote of 3-1-3.

Ayes: Schultz, Golba, Otsuji, Ontai
Absent: Naslund, Griswold, Smiley

There is no active officially recognized community planning group for this area.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of the Sycamore Landfill Master Plan and related actions to allow the site, which is already approved for use as a solid waste disposal facility, to be developed to extend the capacity of this necessary public facility. The site is located on a 517 acre site at 8514 Mast Boulevard in the East Elliot Community Plan Area.

STAFF RECOMMENDATION:

1. **Certify** Environmental Impact Report (EIR) No. 5617, SCH No. 2003041057; adoption of the Mitigation, Monitoring and Reporting Program (MMRP); and adoption of Candidate Findings and Statement of Overriding Considerations;
2. **Approve** the East Elliot Community Plan and General Plan Amendment No. 9917;
3. **Adopt** Rezone No. 534712;
4. **Approve** Public Right of Way Vacations No. 534709 and Easement Vacations No. 534708 on Parcel Map No. 534711;
5. **Approve** Right-of-Way Vacation No. 534709 on a Portion of Map No. 1703;
6. **Approve** Site Development Permit No. 9310 and Planned Development Permit No. 9309 to amend Prior Permit No. 40-0765; and
7. Recommend the City Council **convey** the Vacated Access Road Easement to the applicant.

EXECUTIVE SUMMARY:

The Sycamore Landfill Master Plan project, which is designated as “landfill” in the East Elliott Community Plan, is proposed to be increased by approximately 26 acres, bringing the total area of that plan designation to approximately 517 acres. The proposed maximum height of the proposed landfill is 1,050 feet above mean sea level (AMSL).

The project also provides for an increase in daily tonnage from the current limit of 3,965 tons per day to 6,800 (MSW) tons per day through approximately 2010, increasing gradually until it reaches 13,000 tons per day in approximately 2025 and through estimated landfill closure in 2028 or later. The site would continue to be used for aggregate material excavation and processing. The Master Plan would also allow an increase in permitted traffic to 6,880 ADT, subject to traffic mitigation requirements, transmission line relocation, construction of new permanent maintenance and operations/office facilities, relocated scales, public drop-off facilities for refuse and recyclables, expanded landfill gas management and power generation facilities, a new water storage tank for dust suppression and fire control, a new/relocated fueling facility and surface water management structures including utilities, initiation of enhanced

green/wood material processing operation to assist local governments in diverting additional organic material from the landfill waste stream, initiation of construction and demolition (C&D) materials processing for recovery, construction of a perimeter access road and landscaping of the entrance, and up to 24 hours of landfill operations (receiving and processing waste), seven days a week.

FISCAL CONSIDERATIONS:

No cost to the City. A deposit account funded by the applicant recovers all costs associated with the processing of the project application.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On October 23, 2008, the Planning Commission made a motion to approve Staff Recommendations, which failed by a vote of 3-1-3. Due to not having four affirmative votes, the project would have automatically trailed to the next hearing. The applicant then requested that the Commission deny the project so it could move forward to City Council. A second motion was made to deny Staff Recommendations with the knowledge that the Planning Commission voted in that manner to send the project on to Council for decision. The motion to deny Staff Recommendations passed by a vote of 4-0-3.

The project site is located in the East Elliot Community Plan Area. There is no active Community Planning Group for this area.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Sycamore Landfill, Inc.

Anderson/Broughton

LEGAL DESCRIPTION:

The project site is generally bounded by MCAS Miramar to the north, the eastern ridge line of Little Sycamore Canyon to the east, SR-52 to the south, and the western ridge line of Little Sycamore Canyon to the west. In addition, new transmission line structures would be built within the existing SDG&E transmission line easement areas that cross APNs 366-040-32 and 366-070-31 as well as a modified SDG&E easement along the western and northern perimeter of the landfill. The Project is within the East Elliott Community Planning Area and is more particularly described as Assessor's Parcel Numbers (APNs) 366-041-01, 366-080-57, 366-031-14, 366-031-18, 366-070-13, 366-080-16, 366-080-25, 366-080-26, and Caltrans right-of-way #26-203-3).

Staff: Jeannette Temple – (619) 557-7908
Adam Wander – Deputy City Attorney

FILE LOCATION: SUBITEMS A, B, E, G: MEET
SUBITEM C: F-10301
SUBITEM D: J-2992(39)
SUBITEM F: NONE

COUNCIL ACTION: (Time duration: 6:46 p.m. -9:01 p.m.)

Testimony in opposition by Mayor Randy Voepel, Jack Dale, David Dilday, Felix Tinkov, Ken Lounsbery, Bob Allan, Richard Mutch, Catherine Carter, Katherine Pettigrew, Helen Mobius, Katherine Finn, Van Collinsworth, Gary Triphan, Jarvis Ross, Cynthia Conger, and Tom Grady.

Testimony in favor by Johnnie Perkins, Angelika Villagrana, and Alan Pentico.

MOTION BY MADAFFER TO ADOPT THE RESOLUTIONS IN SUBITEMS B, C, D, AND G; AND INTRODUCE THE ORDINANCE IN SUBITEM F; AND ADOPT THE RESOLUTION IN SUBITEMS A AND 3E WITH THE FOLLOWING CONDITIONS: SAN DIEGO AND SANTEE SHALL WORK TOGETHER REGARDING GREEN WASTE DISPOSAL; INCREASE HEIGHT LIMIT AND CUBIC YARD CAPACITY; UPDATE ODOR MANAGEMENT PLAN PRIOR TO EXPANSION; CONTOUR GRADING AND LANDSCAPING OF SLOPES VISIBLE TO THE SOUTH SO AS TO APPEAR AS OPEN SPACE; ADDRESS STORAGE OF VEHICLES; APPLICANT SHALL CONTINUE METHANE CAPTURE METHOD; DISCOURAGE APPLICANT FROM SOLICITING WASTE FROM OUTSIDE SAN DIEGO COUNTY. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-not present, Maienschein-not present, Frye-nay, Madaffer-yea, Hueso-yea.



ITEM-214: Quarry Falls. Project No. 49068. Rezoning 225 acres located north of Friars Road, south of Phyllis Place, between Mission Center Road and Interstate 805 within the Mission Valley Community Plan Area. (Mission Valley and Serra Mesa Community Plan Areas. District 6.)

(See Report to City Council No. 08-138.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 10/21/2008, Item 331, Subitem F. (Council voted 7-1. Councilmember Frye voted nay):

(O-2009-46 Cor. Copy) ADOPTED AS O-19807 (NEW SERIES)

Rezoning 225 acres located north of Friars Road, south of Phyllis Place, between Mission Center Road and Interstate 805 within the Mission Valley Community Plan Area from the RS-1-7, MVPD-MV-M, and MVPD-MV/SP Zones to the OP-2-1, RS-1-7, RM-1-1, RM-2-4, RM-3-7, RM-3-8, RM-3-9, RM-4-10, CC-3-5, and IL-3-1 Zones, as defined by San Diego Municipal Code Sections 131.0202, 131.0403, 131.0406, 131.0507, and 131.0603 and repealing Ordinance Nos. O-17499 (New Series) and O-13457 (Old Series) adopted August 22, 1990 and March 17, 1932 respectively, of the Ordinances of the City of San Diego insofar as the same conflict herewith.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:41 p.m. - 3:42 p.m.)

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

ITEM-250: **Notice** of Pending Final Map Approval – Pearl Street Townhomes.

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 "Pearl Street Townhomes" (T.M. No. 431879/PTS No. 160373), located on the northwest corner of Pearl Street and Herschel Avenue in the La Jolla Community Plan Area in Council District 1, 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 – 6867 Golfcrest Drive.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “6867 Golfcrest Drive” (T.M. No. 228098/PTS No. 157789), located on Golfcrest Drive between Jackson Drive and Golfcrest Place in the Navajo 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-252: Notice of Pending Final Map Approval – 445 West University Avenue.

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 “445 West University Avenue” (T.M. No. 230565/PTS No. 150827), located on University Avenue east of Dove Street in the Uptown Community Plan Area in Council District 2, 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-253: **Notice** of Pending Final Map Approval – 111 Pennsylvania Avenue.

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 “111 Pennsylvania Avenue” (T.M. No. 237281/PTS No. 156434), located on the northeast corner of Front Street and Pennsylvania Avenue in the Uptown Community Plan Area in Council District 2, 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.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 9:05 p.m.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:05 p.m. – 9:05 p.m.)