

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, JANUARY 27, 2009
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Hueso at 10:08 a.m. The meeting was recessed by Council President Hueso at 11:30 a.m. to convene into Closed Session; thereafter for the noon recess and thereafter reconvene the regular Council Meeting at 2:00 p.m.

The meeting was reconvened by Council President Hueso at 2:03 p.m. with Council Member Young and Council Member Emerald not present. The meeting was adjourned by Council President Hueso at 3:20 p.m. into Closed Session in the 12th Floor Conference Room at 4:00 p.m. to discuss pending and potential litigation.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Lightner-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Gloria-present
 - (4) Council Member Young-present
 - (5) Council Member DeMaio-present
 - (6) Council Member Frye-present
 - (7) Council Member Emerald-not present
 - (8) Council Member Hueso-present
- Clerk-Maland (dlc/mz)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Lightner-present
- (2) Council Member Faulconer-present
- (3) Council Member Gloria-present
- (4) Council Member Young-present
- (5) Council Member DeMaio-present
- (6) Council Member Frye-present
- (7) Council Member Emerald-not present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:42 a.m. – 10:44 a.m.)

PUBLIC COMMENT-2:

Hud Collins commented on the City finances.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. - 10:46 a.m.)

PUBLIC COMMENT-3:

Joy Sunyata commented on various topics.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:46 a.m. - 10:48 a.m.)

PUBLIC COMMENT-4:

Crickett Bradburn commented on human nature.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:48 a.m. - 10:51 a.m.)

PUBLIC COMMENT-5:

Izean Rim Jr. commented on public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:51 a.m. - 10:54 a.m.)

PUBLIC COMMENT-6:

Jarvis Ross commented on the application system.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-7:

Phil Hart commented on commissions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. - 11:00 a.m.)

PUBLIC COMMENT-8:

Cynthia Conger commented on cellular installation.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-9:

David Ross commented on the displaced in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:04 a.m. - 11:07 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council President Hueso welcomed students from Saint Augustine High School.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:11 a.m. – 11:11 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS:

APPROVED; MINUTES OF 12/08/08 AND 12/09/08 RETURNED TO CITY CLERK

Approval of Council Minutes for the meetings of:

12/05/2008-Special
12/15/2008-Adjourned
12/16/2008-Special

12/08/2008
12/09/2008

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:09 a.m. – 10:10 a.m.)

MOTION BY DEMAIO TO APPROVE THE MINUTES OF 12/05/08, 12/15/08 AND 12/16/08 AND RETURN THE MINUTES OF 12/08/08 AND 12/09/08 TO THE CITY CLERK. Second by Young. Passed by the following vote: Lightner-not present, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-not present, Emerald-not present, Hueso-yea.

ITEM-31: Betsy McCullough Day.

COUNCIL PRESIDENT HUESO'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-779) ADOPTED AS RESOLUTION R-304606

Affording Ms. Betsy McCullough absolute freedom with all privileges to pursue other endeavors and to engage herself in the pursuit of happiness and other sundry pleasures of life and proclaiming January 27, 2009, to be "Betsy McCullough Day" in recognition of her tremendous contributions to the City of San Diego, Planning Department for the last 34 years.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:21 a.m.)

MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-not present, Hueso-yea.

- * ITEM-50: Second Amendment to Cooperative Agreement with CalTrans for Auxiliary Lanes on Interstate 15. (Rancho Peñasquitos, Rancho Bernardo, and Carmel Mountain Ranch Community Areas. Districts 1 and 5.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 1/13/2009, Item 50. (Council voted 7-0. Councilmember Young not present):

(O-2009-88) ADOPTED AS ORDINANCE O-19830 (New Series)

Authorizing the Mayor, or his designee, to execute an Amendment to a Cooperative Agreement with CalTrans for the completion of the construction of auxiliary lanes on Interstate 15, extending the termination date of the Agreement to December 31, 2012, under the terms and conditions filed in the Office of the City Clerk;

Declaring that this activity is covered under the I-15 Managed Lanes Final IS/EA and MND, SCH No. 2002101112. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental documents adequately covered this activity as part of the previously approved project, the activity is not a separate project for purposes of California Environmental Quality Act (CEQA) review, pursuant to State CEQA Guidelines Section 15060(c)(3).

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:21 a.m.)

CONSENT MOTION BY FAULCONER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-not present, Hueso-yea.

- * ITEM-51: Casa Mira View Rezone of a Property Located on the East Side of Westview Parkway, North of Mira Mesa Boulevard. (Mira Mesa Community Plan Area. District 5.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 1/6/2009, Item 331, Subitem B. (Council voted 8-0):

(O-2009-52 Cor. Copy) ADOPTED AS ORDINANCE O-19831
(New Series)

Rezoning 56.30 acres located on the east side of Westview Parkway, north of Mira Mesa Boulevard, and legally described as Parcels 1 through 6, inclusive, of Parcel Map No. 16194, filed August 21, 1990, in the Office of the County Recorder in the Mira Mesa Community Plan area, in the City of San Diego, California, as shown on Zone Map Drawing No. B-4269, filed in the Office of the City Clerk, from the Residential Base zones into the Residential Base zones, as the RM-3-8 zone is described and defined by San Diego Municipal Code Chapter 13 Article 1 Division 4. This action amends the Official Zoning Map adopted by Resolution R-301263 on February 28, 2006;

Repealing Ordinance No. O-18451 (New Series), adopted December 9, 1997, of the ordinances of the City of San Diego, insofar as the same conflicts with the rezoned uses of the land.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:21 a.m.)

CONSENT MOTION BY FAULCONER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-not present, Hueso-yea.

* ITEM-100: Inviting Bids for the Construction of Sewer Group 829 Project. (Mid-City Heights Community Area. District 7.)

(See Engineering and Capital Projects Department's November 26, 2008, Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-639) ADOPTED AS RESOLUTION R-304607

Approving the plans and specifications for the construction of Sewer Group 829 (Project), as advertised by the Purchasing and Contracting Department, on Work Order Nos. 140401/189421;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to execute a construction contract with the lowest responsible and reliable bidder, provided that the City Comptroller first furnishes one or more certificates certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$1,691,092.05, from Sewer Fund 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacement, solely for the purpose of construction, contingency and related costs of the Project, provided that the City Comptroller first furnishes one or more certificates certifying that the necessary funds for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$684,000 from Water Fund 41500, CIP-73-083.0, Annual Allocation - Water Main Replacement, solely for the purpose of construction, contingency and related costs of the Project, provided that the City Comptroller first furnishes one or more certificates certifying that the necessary funds for expenditure are, or will be, on deposit with the City Treasurer;

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

Declaring that this activity is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15282(k) as the repair and replacement of an existing pipeline less than one mile in length. (BID-K094519C)

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 12/3/2008, NR&C voted 3 to 0 to approve. (Councilmembers Peters, Faulconer, and Frye voted yea. Councilmember Atkins not present.)

SUPPORTING INFORMATION:

Sewer and Water Group 829 is part of the City of San Diego's continuing Annual Capital Improvements Sewer and Water Main Replacement Program. This project is located in the Mid-City Heights Community and includes the replacement of approximately 1,330 linear feet of existing 8-inch sewer mains, laterals and manholes originally installed in 1928, and the replacement of approximately 556 linear feet of existing 8-inch water mains, water services and fire hydrants originally installed in 1952. The project also includes installing curb ramps and street slurry seal. The streets affected by construction operations are El Cajon Boulevard, 51st Street, Altadena Avenue, 50th Street, Alley between 51st Street and 52nd Street, Alley between 51st Street and Altadena Avenue, and Alley between 50th Street and Altadena Avenue as shown on the location map. Traffic control plans for El Cajon Boulevard have been prepared by the City's design consultant. The Contractor will prepare traffic control plans for other streets and will implement them during construction, after review and approval by the City.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego
Goals: 16.5% Mandatory Subcontractor Participation Goal, 1.5% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1.2% Advisory Participation Goal Disabled Veteran Business Enterprise

(DVBE), 1.5% Advisory Participation Goal Small Minority Business Enterprise (SMBE), 0.3% Advisory Participation Goal Minority Women Business Enterprise (MWBE) and 12% Advisory Participation Goal Other Business Enterprise (OBE).

Other: Prior to award, a Work Force Report, and if necessary, an Equal Opportunity Plan shall be submitted. Staff will monitor the Plan and adherence to the Nondiscrimination Ordinance. EOC staff will evaluate the bidder's compliance with SCOPE. Failure to comply with SCOPE will lead to the bid being declared non-responsive. This contract will be advertised for bids in the San Diego Daily Transcript, the Orange County Register, the City of San Diego's website, and the E-bid Board. In addition, once implemented, the Bidder Registration Program will notify registered participants of bid opportunities. Prior to implementation of the Bidder Registration Program, the City will notify trade associations and eligible firms via fax and/or e-mail.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$2,442,500 (\$1,758,500 for the sewer portion and \$684,000 for the water portion). Funding of \$67,407.95 for the sewer portion was previously authorized by Mayor Action (PA-700). Additional funding of \$1,691,092.05 is available from Enterprise Fund in CIP-44-001.0 Annual Allocation - Sewer Main Replacement, Fund 41506, Sewer, and funding of \$684,000 is available from Enterprise Fund in CIP-73-083.0 Annual Allocation - Water Main Replacements, Fund 41500, Water, for this purpose.

The project cost for the sewer portion of \$1,758,500 and the water portion of \$684,000 may be reimbursed approximately 80% by current or future debt financing. This project will be funded in FY09. No future funding is anticipated. An Auditor Certificate will be issued prior to contract award.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTIONS:

The Committee on Natural Resources and Culture on December 3, 2008, consent motion by Councilmember Faulconer, second by Council President Peters. Vote to approve 3-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

During the design phase, Sewer and Water Group 829 was presented to the Mid-City Heights Community Group on March 3, 2008. A letter was sent to the community group on August 7, 2008 updating the community on the status of the project. Residents and businesses will also be notified at least one (1) month before construction begins, and again ten (10) days before construction begins by the Contractor through hand distribution of notices.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders are identified as the public and municipality. Residents in the area will encounter inconveniences during construction. A community outreach program will be implemented during construction. No new fees or regulations are proposed.

After completion, residents will experience improved reliability of the sewer system and water distribution system.

Boekamp/Jarrell

FILE LOCATION: CONT-Pullman Engineering, Inc.

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:21 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-not present, Hueso-yea.

* ITEM-101: Memorial Park Swimming Pool Improvements. (Southeastern San Diego Community Area. Districts 4 and 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-727) ADOPTED AS RESOLUTION R-304608

Amending the Fiscal Year 2009 Capital Improvements Program Budget in CIP-29-893.0, Miscellaneous Pool Improvements, Fund No. 79511, Southeastern San Diego Development Impact Fees (DIF), by increasing the budget amount by \$750,000;

Authorizing the City Comptroller to appropriate and expend an amount not to exceed \$750,000 from CIP-29-893.0, Miscellaneous Pool Improvements, Fund No. 79511, Southeastern San Diego DIF, for improvements to the Memorial Park Swimming Pool;

Declaring that the transfer of funding would not be considered a “project” and is therefore not subject to California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

The pool at Memorial Park was built in 1969, and is showing the results of deferred maintenance. The decking is cracked and needs to be replaced, the pool equipment is old and inefficient, and the pool itself is leaking. In addition, the facility does not meet current accessibility standards. The community has also expressed interest in increasing the number of swim lanes from six to eight, and providing water recreation opportunities for smaller children.

This CIP was created to provide upgrades to the pool facility at Memorial Park. This action will provide initial funding for project management, and a Professional Consultant to prepare design and construction documents for the pool area.

EQUAL OPPORTUNITY CONTRACTING:

This action does not authorize entering into any contract or agreement. Future contracts or agreements associated with this CIP will conform to City’s Equal Opportunity Contracting policies. EOC staff will evaluate consultant’s or bidder’s compliance with contract goals and good faith effort.

FISCAL CONSIDERATIONS:

Total project funding for these improvements is estimated to be \$2,500,000. It is anticipated that any additional non-personnel operating expenses will be offset by greater efficiency of the new equipment.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On September 12, 2005, Council approved the application for and expenditure of State of California grant funds for \$250,000 under the Park Bond Per Capita RZH Block Grant Program for Miscellaneous Pool improvements at Memorial Park Pool (Resolution Number R-300807).

The Park and Recreation Department is in the process of requesting transfer of those funds for other uses.

In addition, on December 10, 2001, and again on March 12, 2007, Council entered into a Lease Agreement with the San Diego Unified School District for the use and rental of City-owned swimming pools including Memorial Park Pool. (Resolutions Number R-302409 and R-295860).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Memorial Recreation Council has identified and supports the improvements. The program and scope of the improvements will be determined with input from the community and Recreation Council in compliance with Council Policy 600-33, COMMUNITY NOTIFICATION AND INPUT FOR CITY-WIDE PARK DEVELOPMENT PROJECTS.

San Diego Unified School District representatives will be included in the design development of the pool improvements.

STAKEHOLDERS AND PROJECTED IMPACTS:

Memorial Recreation Council
Memorial Park Pool Visitors
San Diego City Schools
Memorial Park Visitors

Boekamp/Jarrell

Aud. Cert. 2900436.

Staff: Samir Mahmalji - (619) 533-5301
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:21 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-not present, Hueso-yea.

* ITEM-102: Settlement of Property Damage Claim of Margaret Hahn.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-763) ADOPTED AS RESOLUTION R-304609

Authorizing the sum of \$300,000 to be paid from the Public Liability Fund in settlement of each and every claim against the City, its agents and employees, in the matter entitled *Margaret Hahn v. City of San Diego*, San Diego Superior Court Case No. GIC861704, alleging damages to the property caused by a failed City storm drain in 2005 property (the Litigation);

Authorizing the City Auditor and Comptroller to issue a check in the amount of \$300,000 to Margaret Hahn and her counsel of record, Brian Gonzales, Esq.

SUPPORTING INFORMATION:

The proposed settlement would resolve all claims arising from a storm drain failure on February 23, 2005.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Public Liability Fund 81140.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This item was considered in Closed Session on October 7, 2008, the City Council approved the settlement amount of \$300,000. City Council voted 7 to 1. The motion was made by Councilmember Atkins with a second by Council President Peters. Councilmember Young was absent.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Brock/Lewis

Aud. Cert. 2900460.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:21 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-not present, Hueso-yea.

* ITEM-103: Settlement of Bodily Injury Claims of Luz Soto and Kelsey N. Soto (A Minor).

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-313) ADOPTED AS RESOLUTION R-304610

Authorizing the City Auditor and Comptroller to issue a check in the sum of \$110,000, made payable to Luz Angelica Soto and Kelsey N. Soto, a minor child, by and through her guardian ad litem, Yesenia Bernal, Law Offices of Aubrey D. Boyd, in full settlement of the lawsuit and of all claims;

Authorizing the City Council to pay the sum of \$110,000 from the Public Liability Fund 81140.

SUPPORTING INFORMATION:

The proposed settlement would resolve all claims arising from a vehicle accident that occurred on March 21, 2006.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Public Liability Fund 81140.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This item was considered in Closed Session on September 16, 2008, the City Council approved the settlement amount of \$110,000. City Council voted 8 to 0 with no members absent. The motion was made by Councilmember Hueso with a second by Councilmember Faulconer.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Phillips/Lewis

Aud. Cert. 2900433.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:21 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-not present, Hueso-yea.

- * ITEM-104: Property Rights Acquisition and Related Costs for the Sewer and Water Group Job 689. (University Heights Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-767) ADOPTED AS RESOLUTION R-304611

Authorizing the Mayor, or his designee, to accept an easement deed for a permanent easement and several temporary construction easements proposed by Sewer and Water Group Job 689 (collectively, the Easements) to construct, reconstruct, maintain, operate, and repair a public sewer pipeline near the end of the cul-de-sac at Hayes Avenue north of Washington Street, sloping down to Highway 163;

Authorizing the Comptroller to expend up to Forty-Five Thousand Dollars (\$45,000) from Capital Improvement Project No. 44-001.0 Annual Allocation-Sewer Main Replacements, Fund 41506, Sewer, for the acquisition of the Easements and payment of related City-staff labor and miscellaneous costs.

STAFF SUPPORTING INFORMATION:

Sewer and Water Group 689, located in the Uptown Community, consists of installation of approximately 9,866 LF of sewer main and 3,003 LF of water main. The project proposes to replace, rehabilitate and/or relocate concrete, vitrified clay or cast iron pipe. The objectives of the sewer portion of the project are to replace deteriorating sewer mains and to relocate as much of the inaccessible sewer mains to more accessible locations within the street.

The plan proposes to abandon approximately 2,800 LF of existing, inaccessible sewer main. Approximately 1,800 LF of sewer main will be abandoned from Buchanan Canyon.

FISCAL CONSIDERATIONS:

\$10,000 for acquisition of property rights; \$35,000 for Real Estate Assets labor charges, title and miscellaneous costs associated with the acquisition of property rights. Total: \$45,000.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Improved sewer service to community by replacement of deteriorating and inaccessible sewer mains.

Barwick/Anderson

Aud. Cert. 2900466.

Staff: Steve Geitz - (619) 236-6311
Brock Ladewig - Deputy City Attorney

FILE LOCATION: DEED F-10326

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:21 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-not present, Hueso-yea.

- * ITEM-105: Appointment and Reappointments to the San Diego County Water Authority Board of Directors.

(See memorandum from Mayor Sanders dated 1/9/2009, with resume attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-774) ADOPTED AS RESOLUTION R-304612

Council confirmation of the following appointment and reappointments by the Mayor of the City of San Diego, to serve as members of the San Diego County Water Authority Board of Directors, for terms ending as indicated:

<u>NAME</u>	<u>TERM ENDING</u>
Barbara Wight (Clairemont, District 6) (Replacing Fred Thompson)	October 27, 2012
Fern Steiner (Bankers Hill, District 2) (Reappointment)	March 5, 2015
Javier Saunders (Point Loma, District 2) (Reappointment)	March 5, 2015
Yen Tu (Scripps Ranch, District 5) (Reappointment)	January 30, 2015

Declaring that the reappointments of Fern Steiner and Javier Saunders are effective as of March 6, 2009, and the reappointment of Yen Tu is effective as of January 31, 2009.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:21 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-not present, Hueso-yea.

* ITEM-106: Appointment and Reappointment to the Planning Commission.

(See memorandum from Mayor Sanders dated 1/6/2008, with resume attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-772) ADOPTED AS RESOLUTION R-304613

Council confirmation of the following appointment and reappointment by the Mayor of the City of San Diego, to serve as members of the Planning Commission, for terms ending as indicated:

<u>NAME</u>	<u>TERM ENDING</u>
Mary Lydon (South Park, District 3) (Replacing Barry Schultz, who is termed out)	January 28, 2013
Robert Griswold (Santaluz, District 1) (Reappointment)	January 28, 2013

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:21 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-not present, Hueso-yea.

* ITEM-107: Appointments and Reappointment to the Balboa Park Committee.

(See memorandum from Mayor Sanders dated 1/8/2009, with resumes attached.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-773) ADOPTED AS RESOLUTION R-304614

Council confirmation of the following appointments and reappointment by the Mayor of the City of San Diego, to serve as members of the Balboa Park Committee, for terms ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Vicki Granowitz (South Park, District 3)	Park & Recreation Board Member	March 1, 2009
Don Liddell (Bankers Hill, District 2) (Replacing Michael Singleton)	Planning Group - Uptown Neighborhood Representative	March 1, 2010
Michael Singleton (Mission Hills, District 2) (Replacing Patti Roscoe, who has resigned)	Council District 3 Representative	March 1, 2009

Robert Steppke
(North Park, District 3)
(Replacing Dan Mazella)

Planning Group - March 1, 2010
North Park Neighborhood
Representative

Mike McDowell
(San Marcos)
(Reappointment)

Vice Chair March 1, 2010

Declaring that pursuant to Council Policy 000-13, for purposes of deliberation and consideration of appointment, it is determined that Mike McDowell is a resident of San Diego County, but not the City of San Diego, and has unique qualifications to serve as a member of the Commission. Therefore, a conscious exception to Council Policy 000-13 is hereby declared.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:21 a.m.)

CONSENT MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-not present, Hueso-yea.

ITEM-108: Amending the 2009 Legislative Calendar Related to Budget and Finance Committee Meetings.

BUDGET AND FINANCE COMMITTEE'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-776) ADOPTED WITH DIRECTION AS RESOLUTION
R-304615

Amending the schedule of meetings for the City Council and Standing Committees, and Council Budget Hearings of the City Council for the period January 1, 2009, through December 31, 2009, a copy of which is on file in the Office of the City Clerk as Document No. RR-304501, to add the following meetings of the Committee on Budget and Finance: (1) Friday, January 30, 2009,

from 2:00 p.m. to 5:00 p.m.; (2) Saturday, February 14, 2009, from 9:00 a.m. to 12:00 p.m.; (3) Saturday, February 21, 2009, from 9:00 a.m. to 12:00 p.m.; and (4) Thursday, February 26, 2009, from 6:00 p.m. to 8:00 p.m.;

Amending the afore-mentioned schedule of meetings for the City Council and Standing Committees, and Council Budget Hearings of the City Council for the period January 1, 2009, through December 31, 2009, to change the time of the regularly scheduled meeting for February 4, 2009, from the morning (9:00 a.m. to 12:00 p.m.) to the evening (6:00 p.m. to 8:00 p.m.);

Directing the City Clerk to post and publish, as necessary, the notice of the meeting with the date, time, and location and make necessary preparations and arrangements for the meeting.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:08 a.m. – 11:13 a.m.)

MOTION BY YOUNG TO ADOPT THE RESOLUTION WITH DIRECTION TO NOTICE THE MEETINGS AS "COMMITTEES AS A WHOLE." Second by Frye. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-not present, Hueso-yea.

ITEM-330: Accepting Donation to Restore Park and Recreation Department Fire Pit Program; Revising the Beverage Vending Machine Program to Discontinue Revenues Received by Certain Employee Groups; and Amending the Fiscal Year 2009 Appropriations Ordinance to Reinstate the Fire Pit Program, including Two Employee Positions, and Three Employee Painter Positions.

STAFF'S RECOMMENDATION:

Adopt the following resolutions in Subitems A and B; hold the first public hearing of the ordinance in Subitem C:

Subitem-A: (R-2009-799) ADOPTED AS RESOLUTION R-304618

Accepting the donation of \$259,500 from an Anonymous Fund at The San Diego Foundation, donated to the City of San Diego to fund the fire pit program and to reinstate the two full-time employee positions eliminated by O-19822 for a period of 18 months;

Authorizing the City Comptroller to create a special interest-bearing Fire Pit Donation Fund (Fund 10329) to be used to maintain the City's Fire Pit Program including necessary employee positions, and to deposit the \$259,500 donation and any future interest earned on that donation into that fund;

Authorizing the Mayor, or the Mayor's designee, to accept any future donations to maintain the City's Fire Pit Program and necessary employee positions, and to deposit such moneys and earned interest into Fund 10329 to be used for such purpose.

Subitem-B: (R-2009-798) ADOPTED AS RESOLUTION R-304619

Declaring that any requirements of Resolution No. R-292403 that may require expenditure of the moneys deposited in Fund 63094 to support employee morale and recognition are hereby discontinued.

Subitem-C: (O-2009-94) FIRST HEARING HELD

Authorizing the City Comptroller to appropriate, transfer, and expend \$86,525 in the Park and Recreation Department (Department 443), General Fund (Fund 100) from revenues transferred from Fund 10329, to reinstate and fund the fire pit program including two FTE employee positions from January through June in Fiscal Year 2009;

Authorizing the City Comptroller to appropriate, transfer, and expend \$120,600 in the General Services Department, Facilities Division (Department 532), from General Fund (Fund 100) revenues, which includes \$25,000 transferred from Fund 63094, to reinstate and fund three FTE painter positions (JC 1635) in Fiscal Year 2009;

Authorizing the City Comptroller to appropriate, transfer and expend \$95,600 of unused TOT distributions in the Library System Improvement Fund (Fund 102216) to return to the TOT Fund (Fund 10220); and to appropriate and expend \$95,600 in the TOT Fund (Fund 10220) to support General Fund promotional activities; and to budget \$95,600 as revenue in the General Fund (Fund 100);

Authorizing the City Comptroller to make all reimbursements, transfers, and adjustments necessary to reinstate the three FTE painter positions in the General Services Department, Facilities Division, and the two FTE positions in the Park and Recreation Department to maintain the City fire pit program.

NOTE: Today's action on Subitem-C is the first public hearing. See the docket of Tuesday, February 3, 2009, for the second public hearing and the introduction and adoption of the ordinance.

STAFF SUPPORTING INFORMATION:

On December 9, 2008, the City Council adopted an ordinance to amend the Fiscal Year 2009 Annual Budget Appropriation Ordinance. Ordinance O-01922 provided the necessary adjustments for City Council to close the \$43 million Fiscal Year 2009 budget gap. Among the budget reductions were the elimination of 3.00 FTE Painters (JC 1635) from General Services Department/Facilities Division and the elimination of support for fire rings from the Park and Recreation Department.

On December 15, 2008, a donor had pledged \$259,500 to fund the City's 186 fire pits for an 18-month period, from January 2009 to June 2010. The donation was administered by the San Diego Foundation to support every child knowing the joys of bonfire on the beach. The fire pit program was eliminated as part of the Mayor's proposal, as approved by City Council, to close a \$43 million budget gap in December 2008. The annual cost to the City's Park and Recreation Department to support the fire pits - which are located in Mission Bay and on the other beaches of La Jolla, Mission Beach, Pacific Beach and Ocean Beach - is \$173,000.

The City began removing the fire pits on Wednesday, December 10, 2008; however, this was stopped soon after the donor pledge was secured. This action requests Council's authority to accept the donor funds and reinstate support for the fire pits.

In addition, this action requests to reinstate the 3.00 FTE Painters in the General Services Department for the remainder of Fiscal Year 2009 based on identified funding from the Library Systems Improvement Fund and Pepsi Citywide Beverage Vending Machine Program Funds. Through the Beverage Agreement with Pepsi Bottling Group, the City receives an annual marketing rights fee in the amount of \$250,000. Currently, \$125,000 is deposited into the General Fund and \$125,000 is distributed among departments associated with employee groups and recreation councils. It is requested that City Council amend Resolution R-292403 to eliminate the program that provides Beverage Vending Machine Program funding to employee groups as set forth in Sections 3 and 5 of said resolution. The \$25,000 previously received by employee groups would be deposited into General Fund. In addition, \$95,600 is available in the Library System Improvement Fund to offset the remaining cost of the painters.

FISCAL CONSIDERATIONS:

Fiscal impact for 18-month Fire Pit Program of \$259,500 was provided by a private donation and is currently on deposit with City Treasurer per DCRs 2009-0010959 and 2009-011097.

Fiscal impact for the 3.00 FTE Painters (JC1635) of \$120,600 is available within existing City funds of 102216 (Library Systems Improvement Fund) and 63094 (Beverage Vending Machine Program).

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Beverage Vending Machine Program and Agreement (R-292403 adopted on 11-02-1999) Amendment to original Ordinance adopting the Annual Budget for the Fiscal Year 2009 (O-19822 final passage on 12-09-2008).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

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

Tirandazi/Lewis

Aud. Cert. 2900511.

Staff: Angela Colton - (619) 236-5988

FILE LOCATION: SUBITEM A & B: MEET
SUBITEM C: NONE

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:42 p.m.)

Testimony in opposition by Joy Sunyata.

Testimony in favor by Nancy Croisant.

MOTION BY FAULCONER TO ADOPT THE RESOLUTIONS IN SUBITEMS A AND B; AND TO HOLD THE FIRST PUBLIC HEARING IN SUBITEM C. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea (nay on Subitem B), Frye-yea, Emerald-not present, Hueso-yea.

ITEM-331: Approving Lease Termination Agreement with YMCA of San Diego County for the Torrey Hills YMCA. (Torrey Hills Community Area. District 1.)

(See memorandum from Beryl Bailey Rayford dated 10/1/2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-627) ADOPTED AS RESOLUTION R-304620

Authorizing the Mayor, or his designee, to deliver the CITY OF SAN DIEGO LEASE TERMINATION AGREEMENT with the YMCA of San Diego County at Torrey Hills Neighborhood Park;

Authorizing the Mayor, or his designee, to waive amounts owing under the Lease in the total amount of Five Thousand Nine Hundred Sixty-Five Dollars and Seventy-Two Cents (\$5,965.72).

STAFF SUPPORTING INFORMATION:

The YMCA of San Diego County has a lease with the City to construct, operate and maintain a community and recreational center on approximately four acres adjacent to the Torrey Hills Neighborhood Park in the City of San Diego. The lease is dated April 15, 2002 and is filed in the Office of the City Clerk as Document Number RR-296349. The lease is for a term of 30 years with two 10-year options at an annual rent of \$1 per year plus an annual non-profit administrative fee subject to CPI adjustments. The Lease was based on YMCA's representation that they would be obtaining substantial donations which would support development of a large recreational facility on the property. Circumstances changed and the YMCA was unsuccessful in its fundraising efforts to develop a new facility.

The Park and Recreation Department believes that interest of the Torrey Hills community will be best served by terminating the Lease and giving the community an opportunity to consider a variety of recreational alternatives for the site. The City requested the termination of the Lease and the YMCA agreed.

FISCAL CONSIDERATIONS:

The YMCA currently owes the City \$5,965.72 in past due non-profit administrative fees. The non-profit annual administrative fee was implemented to help offset City staff time and costs to administer the lease agreement. The Park and Recreation Department and the Real Estate Assets Department believe it is in the City's interest to regain control of the property and recommend waiving the \$5,965.72 administrative fee.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The proposed Termination Agreement will allow the community to provide input for proposed recreational uses at the Torrey Hills Neighborhood Park.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The City of San Diego will benefit from the proposed Termination Agreement since it will allow the community to consider a variety of recreational alternatives for the site.

Barwick/Anderson

Staff: James Barwick - (619) 236-6145
Brock Ladewig – Chief Deputy City Attorney

FILE LOCATION: LEAS – YMCA of San Diego County
for Torrey Hills YMCA

COUNCIL ACTION: (Time duration: 2:03 p.m. – 2:07 p.m.)

MOTION BY LIGHTNER TO ADOPT. Second by Young. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-not present, Hueso-yea.

ITEM-332: Settlement of Personal Injury Claim of Bun Bun Tran.

CITY ATTORNEY’S RECOMMENDATION:

Adopt the following resolution:

(R-2009-770) ADOPTED AS RESOLUTION R-304621

Authorizing the City Comptroller to issue a check in the amount of, but not exceeding, \$1,000,000 made payable to Bun Bun Tran, by and through his Guardian ad Litem, Le Thi Nguyen and his attorney of record, Angelo and DiMonda, in full and final settlement of all claims arising from the personal injury claim of Bun Bun Tran, San Diego Superior Court Case No. 37-2007-00065432-CU-PA-CTL;

Authorizing the City Council to pay the sum of \$1,000,000 from the Public Liability Fund 81140.

SUPPORTING INFORMATION:

The proposed settlement would resolve all claims brought by Bun Bun Tran.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Public Liability Fund 81140.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE): N/A

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The item was considered in Closed Session on October 7, 2008. The Council approved the settlement amount of \$1,000,000. The motion passed 6 to 1 with Council President Pro Tem Madaffer voting no and Councilmember Young absent. The motion was made by Councilmember Maienschein and the second by Council President Peters.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Bellows

Aud. Cert. 2900502.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:07 p.m.)

MOTION BY YOUNG TO ADOPT. Second by Falconer. Passed by the following vote: Lightner-yea, Falconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-not present, Hueso-yea.

ITEM-333: Chabad Educational Campus Substantial Conformance Review, Project No. 123607. An application for Substantial Conformance Review of Conditional Use Permit No. 133-PC as amended and a waiver from the requirements of the Inclusionary Affordable Housing Regulations Ordinance related to the Chabad Educational Campus, Project No.123607. (Scripps Miramar Ranch Community Plan Area. District 5.)

Matter of approving, conditionally approving, modifying or denying an application to determine if the proposed Chabad Educational Campus is in substantial conformance with Conditional Use Permit Number 133-PC Amendment and request a waiver from the General Inclusionary Affordable Housing Requirements.

Specifically Conditional Use Permit Number 133-PC Amendment requires “Prior to issuance of any building permit on any phase of development as shown by number on approved Exhibit ‘A’, a plot plan for the entire phase shall be submitted to the Planning Commission for approval.” The 26.98 acre property is located at 10785 Pomerado Road in the RS-1-8 Zone within the Scripps Miramar Ranch Community Plan.

STAFF'S RECOMMENDATION:

Adopt the following resolutions in subitems A and B:

Subitem-A: (R-2009-450) ADOPTED AS RESOLUTION R-304622

Adoption of a Resolution certifying that the proposed Chabad Educational Campus is in substantial conformance with Conditional Use Permit No. 133-PC as amended.

Subitem-B: (R-2009-451) ADOPTED AS RESOLUTION R-304623

Adoption of a Resolution certifying agreement with the conclusions with respect to the Waiver from the requirements of the Inclusionary Affordable Housing Regulations Ordinance and finds that there is no reasonable relationship between the impact of the Chabad development and the inclusionary requirement of the Ordinance;

Granting the Waiver from the requirements of the Inclusionary Affordable Housing Regulations Ordinance for the Chabad Educational Campus, Project No. 123607 to Friends of Chabad Lubavich San Diego, Inc., Owner/Permittee, under the terms and conditions set forth in the Waiver incorporated herein by reference.

OTHER RECOMMENDATIONS:

Planning Commission on September 18, 2008, voted 4-0-3 to recommend the City Council find that the proposed Chabad Educational Campus is in substantial conformance with Conditional Use Permit No. 133-PC as amended; and to incorporate the 26 point private agreement between Chabad and Scripps Community Planning Group as part of the map and as part of their project plan documentation; and prior to arriving at the City Council that the Facilities Benefit Assessment (FBA) be available both for the applicant and the community to assess whether they are in support or not.

The Planning Commission's second motion is to recommend that the City Council deny the Waiver from the General Inclusionary Affordable Housing Requirements because the findings cannot be made.

Ayes: Naslund, Golba, Schultz, Otsuji

Nays: None

Not present: Griswold, Ontai, Smiley

The Scripps Ranch Planning Group has recommended approval of this project with two conditions. Please refer to the Planning Commission Report No. PC-08-076.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Determine if the proposed Chabad Educational Campus, located at 10785 Pomerado Road, is in substantial conformance with Conditional Use Permit Number 133-PC Amendment; and a waiver request from the General Inclusionary Affordable Housing Requirements.

STAFF RECOMMENDATION:

1. Recommend that the City Council determine whether the Chabad Educational Campus is or is not in substantial conformance with Conditional Use Permit Number 133-PC as amended; and
2. Recommend that the City Council approve the waiver from the provisions of the General Inclusionary Affordable Housing Requirements if the applicant's findings can be substantiated.

EXECUTIVE SUMMARY:

The Chabad Educational Campus proposes to expand their existing campus for a high school, college, and campus housing.

The development would include two institutional use buildings, a two-story university building, a sports complex building, relocated sports field, tennis court, swimming pool/spa, and 280 housing units with below grade parking structures for students and faculty of Chabad. The project also requests a waiver from the Inclusionary Affordable Housing requirements pursuant to San Diego Municipal Code Section 142.1305.

The property is subject to Conditional Use Permit (CUP) Number 133-PC, as amended, granted to United States International University (USIU). The original CUP No. 133-PC was granted in 1967 and amended in 1972. Pursuant to the existing approved CUP, "Prior to issuance of any building permit on any phase of development as shown by number on approved Exhibit 'A', a plot plan for the entire phase shall be submitted to the Planning Commission for approval."

This condition translates to a substantial conformance review process to be decided by Planning Commission. Pursuant to the San Diego Municipal Code §113.0102, “substantial conformance means that a revision to a development that was approved through a permit or tentative map complies with the objectives, standards, guidelines, and conditions for that permit or tentative map.”

The applicant is also requesting a Waiver from the Inclusionary Affordable Housing Regulations. The Inclusionary Housing Ordinance allows applicants to request a Variance or Waiver from the affordable housing requirements. The Inclusionary Affordable Housing Regulations do not exempt on-campus student/faculty housing. A waiver would relieve the applicant of the requirement to provide affordable housing units and/or pay an In-Lieu Fee. The applicant has provided findings for the Waiver request (Attachment 3).

Because there is no on-campus housing Facilities Benefit Assessment (FBA) rate, the project will pay a discounted residential FBA rate (Attachment 4).

The applicant has agreed to pay the FBA fees as a condition of approval. In addition, the City will record a deed restriction on the property restricting the use of the units for the sole use of full-time, enrolled students, married students and faculty of Chabad.

FISCAL CONSIDERATIONS:

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

PREVIOUS COUNCIL ACTION:

On August 8, 1994, the City Council determined by Council Resolution Number R-284501 that Chabad’s “proposed facilities, i.e., a kindergarten through twelfth grade private school plus ‘Yeshiva’ (rabbinical seminary) accommodating a maximum of 800 full time equivalent students ...is in fact substantively the same as the university use approved by the City [under USIU conditional use permit] and that therefore no new conditional use permit or amended conditional use permit will be required for such proposed development and use.”

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On September 18, 2008, the Planning Commission’s first motion was to recommend that the City Council determine that the Chabad Educational Campus is in substantial conformance with Conditional Use Permit No. 133-PC as amended; and with the voluntary agreement from the applicant to incorporate the 26 points (Attachment 5) from the private agreement between Chabad and Scripps Community Planning Group as part of the approved project documents; and prior to City Council, that the FBA fees be available both for the applicant and the community to assess whether they are in support or not.

The motion made by Commissioner Naslund, second by Commissioner Golba, and passed by a vote of 4-0-3 with Commissioners Griswold, Ontai and Smiley not present. The Planning Commission's second motion was to recommend that the City Council deny the Waiver from the General Inclusionary Affordable Housing Requirements because the findings cannot be made. The motion made by Commissioner Golba, second by Commissioner Naslund, and passed by a vote of 4-0-3 with Commissioners Griswold, Ontai, and Smiley not present.

On June 5, 2008, the Scripps Ranch Planning Group voted 10-3-0 to approve the project with two conditions. Please refer to the Planning Commission Report.

KEY STAKEHOLDERS:

Owner: Friends of Chabad Lubavich San Diego
Applicants: MW Steele Group, Inc. and Ron Buckley Consulting
Scripps Miramar Ranch Planning Group

Broughton/Anderson/CC

Staff: Cherlyn Cac – (619) 446-5226
Shirley Edwards – Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:45 p.m. – 3:18 p.m.)

Testimony in favor by Jim Milch and Bob Ilko.

MOTION BY DEMAIO TO ADOPT THE RESOLUTIONS IN SUBITEMS A AND B CERTIFYING THE PROPOSED CAMPUS IS IN SUBSTANTIAL CONFORMANCE WITH CONDITIONAL USE PERMIT NO. 133-PC AS AMENDED; GRANT THE WAIVER FROM THE REQUIREMENTS OF THE INCLUSIONARY AFFORDABLE HOUSING REGULATIONS ORDINANCE; INCORPORATE THE 26 POINTS FROM THE AGREEMENT BETWEEN CHABAD AND THE SCRIPPS RANCH PLANNING GROUP, WHICH WOULD INCLUDE \$3.9 MILLION IN FACILITIES BENEFIT ASSESSMENT FEES; AND A DEED RESTRICTION WITH A PENALTY OF \$2 MILLION IF THE UNITS ARE TRANSFERRED FROM STUDENT TO RESIDENTIAL HOUSING. Second by Faulconer. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-not present, Hueso-yea.

ITEM-S500: Identify City's Designated Management Representatives for Labor Negotiations with the City's Employee Organizations.

(See memorandum from Joan F. Dawson dated 1/20/2009.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-792) ADOPTED AS RESOLUTION R-304616

Declaring that pursuant to Government Code Section 54957.6(a) and other applicable statutory law and the City Charter, the City Council identifies its designated representatives for purposes of negotiating with represented employee organizations as follows:

William Kay, Burke, Williams & Sorensen
Timothy Davis, Burke, Williams & Sorensen
City Staff:
Scott Chadwick, Labor Relations Director
Judy von Kalinowski, Deputy Labor Relations Director
Thom Harpole, Senior Labor Relations Officer
Kim Nguyen, Labor Relations Officer
Woo-Jin Shim, Labor Relations Officer
Lourdes Silva, Labor Relations Officer
Valerie VanDeweghe, Deputy Director, Risk Management
Javier Mainar, Assistant Fire Chief
Brian Fennessy, Deputy Fire Chief
David Ramirez, Executive Assistant Police Chief
Robert Kanaski, Assistant Police Chief
Paul Cooper, Assistant/Advisor to the Police Chief
Jan Goldsmith, City Attorney
Tanya Tomlinson, Deputy Director, City Attorney's Office
Joan Dawson, Deputy City Attorney
William Gersten, Deputy City Attorney
Lori Thacker, Deputy City Attorney

STAFF SUPPORTING INFORMATION:

The City Council and City of San Diego wish to identify its designated representatives for purposes of negotiating with the recognized employee organizations. The representatives designated to execute the agreements are:

William Kay, Timothy Davis, Scott Chadwick, Judy von Kalinowski, Thom Harpole, Kim Nguyen, Woo-Jin Shim, Lourdes Silva, Valerie VanDeweghe, Javier Mainar, Brian Fennessy, David Ramirez, Robert Kanaski, Paul Cooper, Jan Goldsmith, Tanya Tomlinson, Joan Dawson, William Gersten and Lori Thacker.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Chadwick/Goldstone

Staff: Scott Chadwick - (619) 236-6313
Joan F. Dawson - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:11 a.m. – 11:13 a.m.)

MOTION BY FAULCONER TO ADOPT. Second by DeMaio. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-not present, Hueso-yea.

ITEM-S501: Cooperative Agreement with San Diego Coastkeeper and Surfrider Foundation for the Study of Feasibility of Diverting Wastewater from Point Loma Wastewater Treatment Plant through Increased Wastewater Recycling.

(See memorandum from San Diego Coastkeeper dated 12/1/2008.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-795) ADOPTED AS RESOLUTION R-304617

Authorizing the Mayor, or his designee, to negotiate and execute a Cooperative Agreement with San Diego Coastkeeper, the San Diego Chapter of Surfrider Foundation, and any other interested environmental groups, for the study of the feasibility of diverting wastewater from the Point Loma Wastewater Treatment Plant through increased wastewater recycling, in exchange for their support of the EPA's tentative decision regarding the National Pollutant Discharge Elimination System permit for the Point Loma plant;

Authorizing the Mayor, or his designee, to negotiate and execute one or more agreements with consultants and experts as needed to meet the City's obligations under the Cooperative Agreement, in a cumulative amount not to exceed \$2,000,000, provided the City Comptroller first certifies that the funds necessary for expenditure are, or will be, on deposit in the City Treasury;

Authorizing the City Comptroller to appropriate and expend an amount not to exceed \$2,000,000 from Sewer Fund 41509, solely and exclusively to hire consultants and experts needed to meet the City's obligations under the Cooperative Agreement;

Authorizing the City Comptroller to return excess budgeted funds, if any, to the appropriate reserves on advice of the administering department;

Declaring that the above activity is statutorily exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15262 as feasibility and planning studies.

SUPPORTING INFORMATION:

The City operates the Point Loma Wastewater Treatment Plant under a National Pollutant Discharge Elimination System (“NPDES”) Permit issued jointly by the United States Environmental Protection Agency (“EPA”) and the local Regional Water Quality Control Board (“RWQCB”). The City’s permit allows the plant to operate at “advanced primary” level, rather than the secondary level treatment requirement applicable to nearly all other sewage treatment plants. This is often referred to as the “Waiver” from secondary treatment requirements. The City’s permit must be renewed every five years.

In December 2007, the City filed its application to renew the NPDES permit for the Point Loma plant, requesting to continue operating the plant at advanced primary level. On December 2, 2008, the EPA issued a tentative decision approving the application and granting the Waiver. On January 21, the EPA and the RWQCB held a joint hearing to take public testimony on the proposed decision. Written comments from the public are due by January 28. A second hearing for discussion of the comments and deliberation of the tentative decision and draft permit will be held in March, with a final permit expected by May or June.

The Waiver has been the subject of litigation for the last twenty years. Environmental groups are concerned that not treating sewage to secondary levels could be harming the environment. Some are threatening litigation challenging the Waiver. By letter dated December 1, 2008, San Diego Coastkeeper and the San Diego Chapter of Surfrider Foundation have offered not to oppose the Waiver in return for the City conducting a study of the feasibility of offloading the Point Loma plant through increased wastewater recycling. The cost of upgrading the Point Loma plant to secondary treatment is estimated to be between \$1 billion and \$1.5 billion.

This action requests authority for the Mayor or his designee to negotiate and execute a Cooperative Agreement with San Diego Coastkeeper, Surfrider Foundation, and any other interested environmental groups to coordinate in a study of the feasibility of reducing wastewater flow to the Point Loma plant through increased wastewater recycling. This action also requests authority to negotiate and execute any consultant agreements necessary to complete the study. The City’s total cost associated with the study is not to exceed \$2 million. In return, Coastkeeper and Surfrider will not oppose the tentative decision and draft permit issued by the EPA granting the Waiver.

FISCAL CONSIDERATIONS:

Total cost not to exceed \$2 million is available in Sewer Revenue Fund 41509.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

NR&C Committee on December 3, 2008, voted 3-0 to forward to full City Council as informational item and for review by Mayor's and City Attorney's Offices. Only the December 1, 2008, letter from the Coastkeeper was available for consideration at that time. The matter is now being presented to the full City Council for action, rather than just as an informational item, due to the January 28 deadline to submit written objections to the EPA's tentative decision.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): N/A

Zeleny/Goldstone

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:11 a.m. – 11:13 a.m.)

MOTION BY FRYE TO ADOPT THE RESOLUTION WITH THE CONDITION THAT ANY SUSPENSION OR TERMINATION OF THE AGREEMENT BE SUBJECT TO THE APPROVAL OF THE MAYOR AND CITY COUNCIL. Second by Faulconer. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-nay, Frye-yea, Emerald-not present, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

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

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

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 3:18 p.m. – 3:20 p.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Hueso at 3:20 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 3:20 p.m. – 3:20 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego