

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, FEBRUARY 17, 2009
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Table of Contents

ATTENDANCE DURING THE MEETING	4
ITEM-300: ROLL CALL.....	5
NON-AGENDA COMMENT	5
COUNCIL COMMENT	9
INDEPENDENT BUDGET ANALYST COMMENT	10
CITY ATTORNEY COMMENT	10
ITEM-30: National Association for the Advancement of Colored People’s (NAACP) Centennial Day.....	10
ITEM-31: Mardi Gras in San Diego Week	11
ITEM-32: NOTE: This item was moved to the Consent Agenda as Item 116	11
* ITEM-50: First Amendment to Agreement with Boyle Engineering Corporation for Otay Second Pipeline Improvements - North Encanto Replacement Project.....	12
ITEM-51: Third Amendment to the Agreement with MWH Americas, Inc., for the Miramar Water Treatment Plant Upgrade and Expansion Project	13
ITEM-100: Inviting Bids for Pump Station Group I – North County, SPS Upgrades Project ..	14
ITEM-101: New Lease Agreement with the San Diego Metropolitan Transit System Located at 200 Catalina Boulevard, San Diego at the Area Known as Catalina Standpipe.....	18
ITEM-102: Payment of Fees to the Firm of Butz Dunn & DeSantis, APC Related to Defense of the City in Litigation Filed by Homeowners in the Vicinity of Soledad Mountain Road and Desert View Drive	19
ITEM-103: Grant Application to U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP) for Children’s Initiative Diversion Project.....	21

ITEM-104: Appointments to the Historical Resources Board.....	24
ITEM-105: Appointments to the Housing Commission.....	25
ITEM-106: Appointment to the Centre City Development Corporation Board of Directors	26
* ITEM-107: Appointments to the Old Town Planned District Design Review Board.....	27
* ITEM-108: San Diego Food Bank’s San Diego Community Cares Project Launch Day.....	28
ITEM-109: Excusing Councilmember Tony Young from Attending the Regularly Scheduled City Council Meeting of January 20, 2009.....	28
ITEM-110: Excusing Councilmember Donna Frye from Attending the Regularly Scheduled City Council Meeting of January 20, 2009.....	29
ITEM-111: Excusing Councilmember Marti Emerald from Attending the Regularly Scheduled Council Meetings of January 26-27, 2009.....	30
ITEM-112: Declaring a Continued State of Emergency Regarding the Wildfires	30
* ITEM-113: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad	31
* ITEM-114: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.....	32
ITEM-115: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.....	32
ITEM-116: Asian Business Association Lunar New Year Day.....	33
ITEM-330: Modification of Appointments of the Mayor and City Councilmembers to SANDAG Board, Policy Committees, and Energy Working Group for Calendar Year 2009.....	34
ITEM-331: Torrey Brooke II, Project No. 2118.....	36
ITEM-332: Scripps Miramar Ranch Community Plan Amendments, an amendment to the Scripps Miramar Ranch Community Plan	42

ITEM-333: Vacation of a Portion of Jamacha Road and Cardiff Street. Project No. 162129.
Request for a Street Reservation on lot "B" Map 2998 to be vacated. Located at the corner of
Cardiff Street and Jamacha Road..... 45

ITEM-334: Playa del Sol, Project No. 4925 48

ITEM-335: Supporting Legislation to Amend State Law to Permit Marine Mammals to Inhabit
the Children’s Pool Beach in La Jolla, California 53

REPORT OUT OF CLOSED SESSION 56

NON-DOCKET ITEMS 56

ADJOURNMENT..... 56

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Hueso at 10:00 a.m. The meeting was recessed by Council President Hueso at 11:27 a.m. Council President Hueso reconvened the meeting at 11:33 a.m. with all Council Members Present. The meeting was recessed at 11:40 a.m. for the noon recess and thereafter to reconvene the regular Council Meeting at 2:00 p.m.

The meeting was reconvened by Council President Hueso at 2:03p.m. with all Council Members present. Council President Hueso recessed the meeting at 5:21 p.m. for the purpose of a break. Council President Hueso reconvened the meeting at 5:26 p.m. with Council Member Young not present. Council President Hueso recessed the meeting at 6:12 p.m. to convene the Redevelopment Agency. Council President Pro Tem Faulconer reconvened the regular meeting at 6:59 p.m. with Council President Hueso not present. The meeting was adjourned by Council President Pro Tem Faulconer at 7:03 p.m.

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-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-present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on lawsuits allowing judges to make laws.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:40 a.m.)

PUBLIC COMMENT-2:

Joy Sunyata commented on the Housing Commission.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:40 a.m. - 10:43 a.m.)

PUBLIC COMMENT-3:

Hud Collins commented on City Finances.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-4:

Al Strohlein commented on conserving water.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-5:

Jarvis Ross commented on discrimination.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-6:

Heather and Daniel Nagey presented for the Kids for Peace Organization.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:54 a.m. – 10:55 a.m.)

PUBLIC COMMENT-7:

Robert McNamara commented on Council car allowance and compensation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:55 a.m. – 10:57 a.m.)

PUBLIC COMMENT-8:

Thomas Danny Glasser commented on various concerns.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. – 10:59 a.m.)

PUBLIC COMMENT-9:

Abdur-Rahim Haneed commented on Black History Month.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:01 a.m. – 11:02 a.m.)

PUBLIC COMMENT-10:

Phil Hart commented on Council responsibility.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:02 a.m. – 11:04 a.m.)

PUBLIC COMMENT-11:

Izean Rim Jr. commented on public safety.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-12:

J. Nathaniel Howard commented on a boycott on the San Diego Padres.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-13:

Dion Markgraff commented on medical marijuana regulations.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:14 a.m. – 11:17 a.m.)

PUBLIC COMMENT-14:

Dennis Breedlove commented on supporting Israel. Dorris Bittar and Edward Sweed commented on global conflict in the Middle East.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:17 a.m. – 11:20 a.m.)

PUBLIC COMMENT-15:

Cynthia Conger commented on the WiFi policy.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:21 a.m. – 11:22 a.m.)

PUBLIC COMMENT-16:

Homer Barrs commented on mobile home relocation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:22 a.m. – 11:25 a.m.)

PUBLIC COMMENT-17:

David Ross commented on the displaced in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:26 a.m. – 11:29 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Young acknowledged and thanked Project Safe team members for their efforts in making sure children are safe walking to and from school.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:37 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.



[ITEM-30:](#) National Association for the Advancement of Colored People's (NAACP) Centennial Day.

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-807) ADOPTED AS RESOLUTION R-304636

Proclaiming February 17, 2009, to be "The National Association for the Advancement of Colored People's (NAACP) Centennial Day" in the City of San Diego and commending members of the San Diego Branch of the NAACP for their courage and commitment to the fulfillment of freedom, justice and equality in the City of San Diego.

FILE LOCATION: AGENDA

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

MOTION BY YOUNG TO ADOPT. Second by Lightner. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.



[ITEM-31:](#) Mardi Gras in San Diego Week.

COUNCILMEMBER FAULCONER'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-827) ADOPTED AS RESOLUTION R-304637

Proclaiming the week of February 16, 2009, as “Mardi Gras in San Diego Week”
in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:15 a.m. – 10:28 a.m.)

MOTION BY FAULCONER TO ADOPT. Second by Young. Passed by the following
vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea,
Emerald-yea, Hueso-yea.

ITEM-32: **NOTE:** This item was moved to the Consent Agenda as Item 116.

- * ITEM-50: First Amendment to Agreement with Boyle Engineering Corporation for Otay Second Pipeline Improvements - North Encanto Replacement Project. (North Encanto Community Area. District 4.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 2/3/2009, Item 50. (Council voted 8-0):

(O-2009-85) ADOPTED AS ORDINANCE O-19833 (New Series)

Authorizing the Mayor to execute, for and on behalf of the City, a First Amendment to the Agreement with Boyle Engineering Corporation for construction support services of Otay Second Pipeline Improvements - North Encanto Replacement Project, under the terms and conditions set forth in the Agreement;

Declaring that this activity is not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines, Section 15378(c). This activity is subsequent discretionary approval covered under the Otay II Pipeline Improvements Project LDR No. 42-0955, Environmental Impact Report (EIR). This 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 pursuant to CEQA Guidelines Section 15177.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:36 a.m.)

CONSENT MOTION BY EMERALD 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-yea, Hueso-yea.

- * ITEM-51: Third Amendment to the Agreement with MWH Americas, Inc., for the Miramar Water Treatment Plant Upgrade and Expansion Project. (Scripps Miramar Ranch and Miramar Ranch North Community Areas. District 5.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 2/3/2009, Item 51. (Council voted 8-0):

(O-2009-86 Cor. Copy) ADOPTED AS ORDINANCE O-19834
(New Series)

Authorizing the Mayor to execute the Third Amendment to the Agreement with MWH Americas, Inc., for construction management services in the amount not to exceed \$3,500,000, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of \$3,500,000 from the Enterprise Fund CIP-73-284.0, Miramar Water Treatment Plant Upgrade and Expansion, Fund 41500, Water, for the construction management services for Miramar Water Treatment Plant, of which \$2,025,000 is for Contract B, \$1,225,000 is for Contract C and \$250,000 is for Contract D, for the purpose of executing this Agreement, contingent upon the City Auditor and Comptroller furnishing one or more certificates certifying that funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer and upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Declaring that this activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378(c). This activity is a subsequent discretionary approval covered under LDR No. 99-0704, Miramar Water Treatment Plant Upgrade and Expansion EIR. The activity is adequately addressed in the environmental document and there is no change in circumstances, additional information, or project changes to warrant additional environmental review pursuant to CEQA Guidelines Section 15177.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:36 a.m.)

CONSENT MOTION BY EMERALD 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-yea, Hueso-yea.

- * ITEM-100: Inviting Bids for Pump Station Group I – North County, SPS Upgrades Project. (Rancho Bernardo and Via de la Valle Community Areas. Districts 1 and 5.)

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

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-780 Cor. Copy) ADOPTED AS RESOLUTION R-304638

Approving the plans and specifications for the construction of Pump Station Group I – North County, SPS Upgrades (Project) as advertised by Purchasing and Contracting Department, on Work Order No. 178921;

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

Authorizing the expenditure of an amount not to exceed \$5,864,240.80 from Sewer Fund 41506, CIP-41-929.0, Pump Station Upgrades, Group I - North County, SPS Upgrades, solely for construction, contingency, and Project related costs, provided that the City Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

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

Declaring that this activity is covered by Mitigated Negative Declaration, LDR No. 31233, dated August 30, 2004. 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 Sections 15060(c)(3) and 15378(c). (BID-K092601C)

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:

The Citywide Pump Stations Upgrade Projects involve four separate groups of construction contracts, totaling 22 sewer pump stations. Pump Stations Upgrades-PS Group I project involves the improvement to seven existing sewer pump stations; specifically, it involves Station Numbers 71, 73, 74, 75, 76, and 80 in the Rancho Bernardo community and Station Number 82 in the Via de la Valle community.

The scope of work generally consists of provision of secondary force mains, replacement of pumps, motors, suction and 3-way valves, upgrade of ventilation systems, replacement of wet well top slabs, installation of light poles and lights, provisions for emergency generators, replacement of pump control panels, installation of ultrasonic pulsar transducers for wet well monitoring and site restoration including construction of fences and gates, repaving of station sites, irrigations upgrades and landscaping.

All of these pump stations are identified in the Final Consent Decree as required projects.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego

Goals: 44% Mandatory Subcontractor Participation Goal, 14% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 2% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 28% 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 \$6,952,489.91. Funding of \$2,343,874 was previously authorized by Council Resolutions (R-297744 - \$1,428,335 and R-299233 - \$915,539) for consultant services for four separate groups of Pump Station Upgrades, totaling 22 Sewer Pump Stations. Of this amount, \$1,088,249.11 was authorized for PS Group I - North County SPS Upgrades. Additional funding of \$5,638,740.80 will be available from Enterprise Fund in CIP-41-929.0, Pump Station Upgrades, Fund 41506, Sewer, and \$225,500 will be available from Enterprise Fund in CIP-46-193.0, Annual Allocation - Muni Pool Contingency, Fund 41506, Sewer, for this purpose.

The project cost of \$6,952,489.91 may be reimbursed approximately 80% by current or future debt financing. This project will be funded in FY10. No future funding is anticipated. The Auditor's Certificate will be provided prior to contract award.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTIONS:

On January 13, 2002, Council Resolution (R-297744) executed an agreement with CGvL for the amount of \$1,428,335 and on March 11, 2004, Resolution (R-299233) executed a First Amendment to the agreement with CGvL for \$915,539 for the design of four separate groups of Pump Stations Upgrades. Of this amount, \$ 1,088,249.11 of total contract amount is related to design of PS Group I - North County SPS Upgrades.

