

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, FEBRUARY 24, 2009  
AT 9:00 A.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Council President Hueso at 10:02 a.m. The meeting was recessed by Council President Peters at 11:32a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Hueso at 2:01 p.m. with all Council Members present. Council President Hueso recessed the meeting at 3:04 p.m. to convene as the Housing Authority. Council President Hueso recessed the meeting at 3:08 p.m. for the purpose of a break. Council President Hueso reconvened the regular meeting at 3:15 p.m. with Council Member DeMaio not present. The meeting was adjourned by Council President Hueso at 5:46 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 prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:31 a.m.)

PUBLIC COMMENT-2:

Hud Collins commented on City finances.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:33 a.m.)

**PUBLIC COMMENT-3:**

Steve Bruce commented on ending starvation and benefits.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:39 a.m.)

**PUBLIC COMMENT-4:**

Izean Rim Jr. commented on public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:40 a.m.)

**PUBLIC COMMENT-5:**

Ian Trowbridge commented on historical houses.

FILE LOCATION: AGENDA

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

**PUBLIC COMMENT-6:**

Phil Hart commented on City management.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:43 a.m. – 10:46 a.m.)

**PUBLIC COMMENT-7:**

Mignon Scherer commented on water, growth and jobs.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:49 a.m.)

**PUBLIC COMMENT-8:**

Jarvis Ross commented on his reflections.

FILE LOCATION: AGENDA

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

**PUBLIC COMMENT-9:**

Bill Bradshaw commented on Council pay and perks.

FILE LOCATION: AGENDA

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

**PUBLIC COMMENT-10:**

Thomas Danny Glasser commented on attacks.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-11:

*Referred to Audit Committee:* John Pilch commented on an investigation request.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-12:

Ray Lutz commented on public access.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:01 a.m. – 11:04 a.m.)

PUBLIC COMMENT-13:

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

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:06 a.m. – 11:07 a.m.)

PUBLIC COMMENT-14:

David Ross commented on the displaced in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:07 a.m. – 11:09 a.m.)

PUBLIC COMMENT-15:

Neal Plastik and Rudy Reyes commented on medical cannabis.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:10 a.m. -11:14 a.m.)

PUBLIC COMMENT-16:

Cynthia Conger commented on Wi-Fi.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:15 a.m. – 11:16 a.m.)

PUBLIC COMMENT-17:

Al Strohlein commented on a reasonable Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:16 a.m. – 11:17 a.m.)

COUNCIL COMMENT:

None.

INDEPENDENT BUDGET ANALYST COMMENT:

None.



CITY ATTORNEY COMMENT:

None.



[ITEM-30:](#) American Heart Month.

**COUNCILMEMBER LIGHTNER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-847) ADOPTED AS RESOLUTION R-304669

Declaring February 2009, to be "American Heart Month" in the City of San Diego in recognition of the mortal threat posed by cardiovascular disease.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:11 a.m. – 10:15 a.m.)

MOTION BY LIGHTNER TO ADOPT. 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-31:](#) Bay Terrace Fil-Am Seniors Association Day.

**COUNCILMEMBER YOUNG'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-801) ADOPTED AS RESOLUTION R-304670

Proclaiming February 24, 2009, as the “Bay Terrace Fil-Am Seniors Association Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:17 a.m. – 10:19 a.m.)

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



[ITEM-32:](#) Tierrasanta Village Day.

**COUNCILMEMBER EMERALD'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-845) ADOPTED AS RESOLUTON R-304671

Commending the Tierrasanta Village Project for its outstanding efforts to foster and maintain a solid cultural identity that promotes planning for tomorrow by our citizens who are now 50 years of age and older;

Proclaiming February 24, 2009, to be “Tierrasanta Village Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:20 a.m. – 10:27 a.m.)

MOTION BY EMERALD 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-50: California Department of Public Health Safe Drinking Water State Revolving Fund Loan Application.

(See Water Department's November 24, 2008, Executive Summary Sheet.)

**TODAY'S ACTION IS:**

Introduce the following ordinance:

(O-2009-93) INTRODUCED, TO BE ADOPTED ON TUESDAY,  
MARCH 10, 2009

Introduction of an Ordinance authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, a Safe Drinking Water State Revolving Fund Loan, Funding Agreement, Amendments, Reimbursement Claims, and Final Release form for the Project;

Authorizing the Mayor, or his designee, to designate revenues from Water Fund rates, charges and assessments, and financing proceeds as the dedicated source of revenue required under the Funding Agreement in an amount not to exceed \$33,275,113, and this dedication shall remain in full force and effect until such Funding Agreement is fully discharged, unless modification or change of such dedication is approved by the State of California;

Authorizing the City Engineer, or other registered engineer designated by the Mayor, to execute the Budget and Expenditure Summary and Certificate of Project Completion forms;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend an amount not to exceed \$12,000,000 for reimbursement by a State Revolving Fund loan and certifying that funds are available contingent upon the loan being secured;

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

Authorizing the \$12,000,000 loan to be repaid over 20 years at a 2.3086 percent rate;

Declaring that this activity is covered under the Alvarado Water Treatment Plant Upgrade & Expansion Environmental Impact Report LDR No. 98-0130, that there is no change in circumstance, additional information or project changes to warrant additional environmental review and that this Project is not a separate project for purposes of review under the California Environmental Quality Act (CEQA), per CEQA Guidelines Sections 15060(c)(3) and 15378(c).

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

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 12/03/08, NR&C voted 3 to 0 to forward this item to the full City Council. (Councilmembers Peters, Faulconer, and Frye voted yea. Councilmember Atkins not present.)

**SUPPORTING INFORMATION:**

In January 2008, the Water Department submitted a Safe Drinking Water State Revolving Fund (SRF) Loan application to the California Department of Public Health (CDPH) for the Alvarado Water Treatment Plant Upgrade & Expansion, Phase IV (AWTP) project. On September 29, 2008, CDPH determined that Project No. 3710020-028 was eligible for a construction loan in the amount of \$12 million and a Safe Drinking Water State Revolving Fund Notice of Acceptance of Application (NOAA) was sent to the City of San Diego Water Department indicating that funds are being reserved for the project. The NOAA also outlines the terms and conditions the City must meet prior to issuance of a funding agreement. The Safe Drinking Water State Revolving Fund is a low interest loan program with a fixed rate, allowing up to \$20 million per project and up to \$30 million per entity.

It provides public water systems in California the opportunity to utilize subsidized funding to correct infrastructure problems, to assess and protect source water, and to improve technical, managerial and financial capability.

FISCAL CONSIDERATIONS:


The funding agreement, when issued for the Alvarado WTP Upgrade & Expansion Phase IV Project, will provide a \$12 million loan to be repaid over 20-years at a 2.3086 percent interest rate. Semi-annual principal and interest payments will be approximately \$376,266.73 and will normally begin after project completion, which is scheduled for August 2010. The total project costs for the AWTP Upgrade & Expansion, Phase IV project, CIP No. 73-261.3 is estimated to be \$65,275,113. In addition, of the total project cost, approximately \$20 million will be funded by a separate grant from the CDPH Proposition 50 program. The remaining costs will be funded by the Water Operating Fund or Water Department financing proceeds.

The Water Department has sufficient capacity to issue additional debt following the rate increases approved by the City Council on February 26, 2007.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE):

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On May 30, 2008, Resolution No. R-303743 was passed authorizing the execution of a \$20 million Proposition 50 Grant Funding Agreement and authorized expenditure of funds for the Alvarado WTP Upgrade & Expansion Phase IV Project. A request to authorize advertising for bid/award for the AWTP Upgrade and Expansion – Ozone Project was heard at NR&C on \* [ITEM-100:](#)  
Account Reconciliation of Airports Capital Improvement Projects. (Otay Mesa and Kearny Mesa Community Areas. Districts 6 and 8.)

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:22 a.m. – 11:24 a.m.)

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

ITEM-100: Account Reconciliation of Airports Capital Improvement Projects. (Otay Mesa and Kearny Mesa Community Areas. Districts 6 and 8.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-751 Cor. Copy)

RETURNED TO MAYOR'S OFFICE

Authorizing the City Comptroller to transfer the sum of \$100,135.92 from CIP-31-001.1, Brown Field Annual Allocation, to be deposited into CIP-31-174.0, Brown Field Airport Slurry Seal and Paint of Runway and Taxiways, within Fund 10510, Brown Field Spec Aviation;

Authorizing the City Comptroller to transfer the sum of \$223,109.02 from CIP-31-001.0, Montgomery Field Annual Allocation, to be deposited into CIP-31-339.0, Montgomery Field Perimeter Fencing and Access Control Improvement - Phase II, within Fund 10520, Montgomery Field Spec Aviation.

**STAFF SUPPORTING INFORMATION:**

The Airports Division previously constructed two projects: 1) the Brown Airport Slurry Seal and Paint of Runway and Taxiways; and 2) the Montgomery Field Perimeter Fencing and Access Control Improvement - Phase II. These projects are now complete and the Airports Division needs to reconcile the account imbalances by transferring the needed funds from the applicable Airports Annual Allocation Funds. The deficits are in the amount of \$100,135.92 for the Brown Field project and \$223,109.02 for the Montgomery Field project.

**FISCAL CONSIDERATIONS:**

The total cost to reconcile the two projects are \$100,135.92, from CIP-31-001.1, Brown Field Annual Allocation and \$223,109.02, from CIP-31-001.0, Montgomery Field Annual Allocation. Added together the sum is \$323,244.94.

**PREVIOUS COUNCIL AND COMMITTEE ACTIONS:**

City of San Diego Council Resolution No. R-297919 authorized the City to accept FAA grant funding in the amount of \$750,000 to construct the Brown Field Airport Slurry Seal and Paint of Runway and Taxiways by Resolution No. R-300029. Resolution No. R-297268 authorized the City to accept FAA grant funding of \$150,000 to construct the Montgomery Field Perimeter Fencing and Access Control Improvement - Phase II by Resolution No. R-300030.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key Stakeholders: City of San Diego

Projected Impacts: None

Tussey/Jarrell

Aud. Cert. 2900424.

Staff: Mike Tussey - (858) 573-1441  
John H. Serrano - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:27 a.m. – 10:28 a.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR'S OFFICE.  
Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea,  
DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.



\* ITEM-101: Grant to Remove Trash and Non-Native Plants on a Section of Chollas Creek. (Oak Park, El Cerrito, and Redwood Village Community Areas. Districts 4 and 7.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-815) ADOPTED AS RESOLUTION R-304672

Authorizing the Mayor, or his designee, to apply for, negotiate an Agreement with, and accept Grant Funding from the Habitat Conservation Fund, California Park and Recreation Department, in an amount not to exceed \$49,525 for a period of five years, for the Chollas Creek Habitat Enhancement Project;

Authorizing the Mayor, or his designee, to conduct grant negotiations and execute all grant related documents for the Chollas Creek Enhancement Project including, but not limited to, applications, agreements, amendments, and payment requests which may be necessary to secure funding from the Habitat Conservation Fund, and to carry out and administer the City's responsibilities, under the terms and conditions of the Grant;

Authorizing the City Comptroller to accept, appropriate, and expend grant funds received for the Chollas Creek Habitat Enhancement Project, contingent on execution by the Mayor, or his designee, of a Grant Agreement;

Authorizing the City Comptroller to establish a separate fund to track expenditures and receive Grant related reimbursements for eligible expenditures;

Authorizing the expenditure of an amount not to exceed \$49,525 from Fund No. 41200, solely and exclusively, to provide matching funds for the Chollas Creek Habitat Enhancement Project, contingent on execution by the Mayor, or his designee, of a Grant Agreement;

Declaring that the grant application activity is not a project and therefore is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15060(c)(3). The activity for which the Grant Funds will be used, if awarded, is statutorily exempt from CEQA pursuant to CEQA Guidelines Section 15268 (Ministerial Projects) because it is part of the operations and maintenance provided by the City on City property and no land use permits will be required.

**STAFF SUPPORTING INFORMATION:**

The Habitat Conservation Fund will provide the funds needed to restore and maintain for five years approximately 4.03-acres of native riparian and upland coastal sage scrub habitat along Chollas Creek, in the vicinity of 54th Street and Chollas Pkwy. Efforts to remove trash and non-native species will improve water quality for native plant and animal communities. Currently, that section of Chollas Creek exceeds TMDL's for several pollutants. Removal of trash would help reduce the source of some of these pollutants. The project will serve the interests of the City, not only by improving wildlife habitat and water quality, but also by providing for removal of trash in this area that frequently is occupied by transients. Removal of non-native vegetation may discourage future encampments in this area.



FISCAL CONSIDERATIONS:

The funding for the 54th Street and Chollas Pkwy location (\$49,525) will be provided through the Habitat Conservation Fund of the California Park and Recreation Department. The City has paid for cleanups in this area in the past from its own funding sources, and this grant would help expand the ability of the City to continue cleanups and reduce the financial impact of them on the City. The total estimated cost of the project is \$99,050, with the City being responsible for \$49,525 used to restore a 4.03-acre section of Chollas Creek. The City will provide matching funds through staff time and volunteer hours.

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

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Resolution No. R-300721 was approved for a related project on 08/01/2005, however the Environmental Services Department did not receive the grant. The previous grant was for a much smaller amount (\$8,000) and did not require matching funds.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Environmental Services Department will be working with Groundwork San Diego and the California Conservation Corps to assist in site cleanup service and an educational nexus with local public schools and the community.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Work will be organized by the Environmental Services Department in concert with Transportation/Streets and Parks and Recreation.

Billiard/Jarrell


Aud. Cert. 2900519.

Staff: Lisa Wood - (858) 573-1236  
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:27 a.m. – 10:28 a.m.)

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

 \* [ITEM-102](#): Accepting Private Donations for the Purchase and Planting of Mexican Fan Palm Trees Adjacent to Ellen Browning Scripps Park. (La Jolla Community Area. District 1.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-778)                      ADOPTED AS RESOLUTION R-304673

Thanking Dr. George Gerrodette, Mrs. Ann Parode Dynes, Mr. Jack Holzman, and Mrs. Betty-Jo Peterson for their generous donation of \$31,000 for the purchase and planting of Mexican Fan Palm Trees adjacent to Ellen Browning Scripps Park, 1000-1100 Coast Boulevard, La Jolla, and accepting their donation for and on behalf of the City;

Authorizing the City Comptroller to accept and deposit the donation of \$31,000 in General Fund No. 100, General Services Street Division, Dept 534, Org 2706; and to transfer \$2,400 from Council District One Infrastructure Fund No. 10529, Dept 10529, Org. 1000, to General Fund No. 100, General Services Street Division, Dept 534, Org 2706, for the purchase and planting of Mexican Fan Palm Trees at Ellen Browning Scripps Park;

Authorizing the City Comptroller to appropriate and expend an amount not to exceed \$33,400 from General Fund No. 100, General Services Street Division Dept 534, Org 2706, solely and exclusively, for the purchase and planting of Mexican Fan Palm Trees at Ellen Browning Scripps Park;

Authorizing the City Comptroller to accept, appropriate, and expend any additional funds which may later be received by the City for the purchase and planting of additional Mexican Fan Palm Trees for Ellen Browning Scripps Park;

Declaring that the above activity is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15304 as a minor alterations to land.

**STAFF SUPPORTING INFORMATION:**

This action will allow the City to accept \$31,000 kindly donated by several La Jolla residents, namely: Dr. George Gerrodette, Mrs. Ann Parode Dynes, Mr. Jack Holzman, Mrs. Betty-Jo Peterson. These civic-minded residents recognize the “signature” character of these Mexican Fan Palms as a landmark feature of the City’s Ellen Browning Scripps Park, and they wish through their donations to help preserve the historic characteristics of this park for visitors and future generations of San Diego residents. Council District One is also helping to fund the purchase and planting of these new trees.

**FISCAL CONSIDERATIONS:**

The total projected cost, including purchase and planting of the trees is \$33,400. \$31,000 will be provided from private donations and \$2,400 will be transferred from Council District One Infrastructure Fund 10529, Org 1000.

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

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

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The project was reviewed and endorsed by the La Jolla Town Council’s Beaches and Parks Committee. The La Jolla Town Council has also voted to approve the project.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

The key stakeholders are the constituents of Council District One.

Yousef/Jarrell

Aud. Cert. 2900454.

Staff: Hasan Yousef - (619) 527-7540  
Thomas C. Zeleny - Deputy City Attorney

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:27 a.m. – 10:28 a.m.)

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



\* [ITEM-103](#): Mission Valley Preserve Habitat Enhancement. (Mission Valley Community Area. District 6.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-843 Cor. Copy) ADOPTED AS RESOLUTION R-304674

Authorizing the City Comptroller to transfer an amount not to exceed \$50,000 from CIP-20-013.0, Park and Recreation Grant Match Funding, Fund 630221 to CIP-29-876.0, Mission Preserve Habitat Enhancement;

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 not a "project" and therefore is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA State Guidelines Section 15060(c)(3).

**STAFF SUPPORTING INFORMATION:**

In 2002, State of California legislation (AB 2156 Kehoe) created the San Diego River Conservancy to manage the public lands along the San Diego River. This legislation provided \$12 million for acquisition and development of river parkways, pursuant to Section 78682.2 of the Water Code. The source of funding was the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002 (Proposition 40). The State Resources Agency was designated as the lead agency for grant administration of the River Parkway program. On September 10, 2004, the San Diego River Conservancy Board approved the use of

\$2.5 million of this State allocation, including \$2 million for the Ocean Beach Bike Path/Hotel Circle North Bikeway and \$500,000 for Mission Valley Preserve Habitat Enhancement. The City of San Diego is the lead agency for the grant applications and completion of these projects. On December 7, 2004, City Council approved R-299939 authorizing the application for and expenditure of State grant funds for the Ocean Beach Bike Path/Hotel Circle North Bikeway and \$500,000 for Mission Valley Preserve Habitat Enhancement. The request did not include any City funds. On July 6, 2006, the Resources Agency and the City of San Diego entered into a \$500,000 grant agreement for the Mission Valley Preserve Habitat Enhancement Program. The grant provides for construction and staff salaries; however, indirect costs associated with City staff labor charges are not eligible for grant reimbursement.

This action requests authorization to use Park and Recreation grant match funds already set aside for this purpose. The City has made significant progress with the Mission Valley Preserve Habitat Enhancement. To date, a habitat restoration plan was created, and the City's contractor removed non-native trees and plants from 4.2 acres during the spring of 2008 to benefit the native flora and fauna. Furthermore, the clearance of dense trees and brush has made the area far less attractive for homeless encampments. The next steps are the installation of an irrigation system and native plants. The project will be completed in the spring of 2009, and the grant term ends June 30, 2009.

FISCAL CONSIDERATIONS:

This action will transfer \$50,000 in Park and Recreation grant match funds to complete this habitat enhancement project and cover indirect costs not eligible for grant reimbursement. This action does not increase operations and maintenance costs beyond the existing grant agreement.

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

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On December 7, 2004, City Council approved R-299939 authorizing the application for and expenditure of State grant funds for the San Diego River, including a \$500,000 grant for Mission Valley Preserve Habitat Enhancement.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The San Diego River Park Foundation will install the irrigation system and revegetate the area with native plants pursuant to an executed service agreement.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Stakeholders include the San Diego River Conservancy, the San Diego River Park Foundation, and the Friends of Mission Valley Preserve.

LoMedico/Goldstone

Aud. Cert. 2900545.

Staff: Heidi Lang - (619) 525-8218  
Shannon M. Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:27 a.m. – 10:28 a.m.)

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



\* ITEM-104: Initiation of Amendments to the Mission Beach Planned District Ordinance. (Mission Beach Precise Planning Board. District 2.)

**COUNCIL PRESIDENT PRO TEM FAULCONER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-793) ADOPTED AS RESOLUTION R-304675

Initiating text amendments of the zoning and development controls within the Mission Beach Planned District Ordinance in order to correct inconsistencies, provide clarifications, and address unintended consequences caused by the current regulations;

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)(3).

**SUPPORTING INFORMATION:**

The purpose of this item is to commence (initiate) a rezoning action for the Mission Beach Planned District Ordinance. Section 123.0103(a) of the San Diego Municipal Code states that the City Council may commence a rezoning by resolution. The commencement of rezoning is the mechanism that allows the City to authorize the work necessary to process a rezone. This action does not grant entitlements and does not change any zones or zoning regulations. It serves to start the process. Any changes to existing zoning can only occur after all required public noticing, community input, and required public hearings before the Planning Commission and the City Council have occurred consistent with the Municipal Code.

The rezoning of the Mission Beach Planned District Ordinance is not to apply new zoning designations or change existing zoning designations. Instead it is intended to correct inconsistencies, provide clarifications, and address unintended consequences caused by the current regulations.

**FISCAL CONSIDERATIONS:**

The Mission Beach Planned District Ordinance amendment is a part of the Land Development Code Update work program and is funded as an overhead expense in the Development Services Department's budget.

**COMMUNITY PARTICPATION AND PUBLIC OUTREACH EFFORTS:**

This initiation serves to start the process; any changes to existing zoning can only occur after all required public noticing, community input, and required public hearings before the Planning Commission and the City Council have occurred consistent with the Municipal Code.

Faucett

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 10:27 a.m. – 10:28 a.m.)

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

\* [ITEM-105](#): San Diego Police Historical Association Day.

**COUNCILMEMBER EMERALD'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-836)            ADOPTED AS RESOLUTION R-304676

Commending the San Diego Police Historical Association for its dedicated service to preserving the proud history of San Diego's law enforcement community and tireless outreach to the community for the purpose of educating future generations;

Proclaiming February 27, 2009, to be "San Diego Police Historical Association Day" in the City of San Diego.

July 18, 2007, and forwarded to the City Council without a recommendation. At the October 29, 2007, City Council meeting, the request was passed by City Council with the direction to add architectural enhancements and color to the building and provide Council an annual project update. This item was heard before the Committee on Natural Resources & Culture on December 3, 2008, and a motion was made to forward the item to the City Council.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

Community meetings were conducted to inform members of the public, including the Friends of Lake Murray, Mission Trails Regional Park Citizen's Advisory Committee and Task Force, and local residents of the scope and schedule of the AWTP Upgrade & Expansion project. Other outreach efforts included fact-sheets, newsletters and updates on the City of San Diego website.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

The key stakeholders are the City of San Diego, Water Department Customers, Mission Trails Regional Park Citizen's Advisory Committee and Task Force, San Diego County Water Authority and the California Department of Public Health.



FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:27 a.m. – 10:28 a.m.)

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



ITEM-330: Fire Sprinkler Retrofitting for High Rise Buildings. (Centre City Community Area. District 2.)

(See Independent Budget Analyst Report No. 09-05.)

(Continued from the meeting of February 2, 2009, Item 200, at the request of Councilmember Faulconer, for further review.)

**STAFF'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2009-92 Rev.) INTRODUCED WITH DIRECTION, TO BE  
ADOPTED TUESDAY, MARCH 10, 2009

Introduction of an Ordinance amending Chapter 5, Article 5, Division 9, of the San Diego Municipal Code by amending Section 55.0903, pertaining to Fire Protection and Prevention, to read as follows:

It is unlawful for any owner of a high-rise building to allow any person to occupy any portion of a high-rise building after January 1, 2011, where occupancy has been authorized pursuant to this section, except where: (1) the occupant is performing minimal maintenance to prevent the high-rise building from being in an unsafe condition; or (2) the occupant is performing construction or maintenance to the building related to the installation or maintenance of an automatic fire sprinkler system; or (3) an approved fire sprinkler system has been completely installed.

**STAFF SUPPORTING INFORMATION:**

In 1986, the Mayor and City Council passed Ordinance Number O-17172 requiring fire sprinkler retrofitting for high-rise buildings. Specific exemptions were granted including all Government buildings except for those owned by the City of San Diego. In 1991, the Council extended the deadline for compliance from 1996 to 1999, unless the owner declared their intent to demolish the building by January 1, 2000. In 1995 the City passed Resolution Number R-286760 declaring the City's intent to demolish the City Administration Building (CAB) prior to January 1, 2000.

On June 5, 2001, Ordinance Number O-18946 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofit Ordinance until January 1, 2004. In addition, the City Council authorized a phase-funded design build contract to continue with the installation of a fire sprinkler system.

On January 13, 2004, Ordinance Number O-19254 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofitting Ordinance until January 1, 2008.

On January 8, 2008, Ordinance Number O-19696 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofitting Ordinance until January 1, 2009.

On December 2, 2008, an ordinance to extend the compliance deadline for the Fire Sprinkler Retrofitting Ordinance was heard, but not approved by the City Council.

The current Fire Sprinkler system includes the: backflow valve, pump, transfer switches, standpipe, alarm system, and sprinklers in the basement and on the 10<sup>th</sup>, 11<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup> floors. Remaining work includes the: emergency backup generator, additional upgrades to the alarm system, and fire sprinklers in all the elevator lobbies and on the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, and 12<sup>th</sup> floors. The cost of this remaining work is estimated to be in excess of \$5,000,000.

On July 31, 2007, CCDC issued a request for qualifications to redevelop the Civic Center Complex. The proposed redevelopment of the Civic Center Complex has proceeded with the peer review and financial analysis which was estimated to be complete in December. Presentations to the Centre City Development Board (CCDC), the Rules Committee and the City Council are anticipated in early 2009. If this project were to move forward the completion of the fire sprinkler system in CAB would not be necessary. Should the proposed redevelopment of the Civic Center Complex not take place, the completion of the final phase of the sprinkler system project would need to be completed.

Extending the deadline for compliance with the Fire Protection and Prevention Ordinance to 2011 will allow time for the completion of the evaluation of the redevelopment process for Civic Center Complex.

FISCAL CONSIDERATIONS:

No funding is currently necessary for this action; however, if City Council does not approve the extension \$5,000,000 will need to be added to this year's Capital Improvement Program Budget in order to complete the fire Sprinkler System at CAB. Funding for this project has not been identified.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

- 1986, the Mayor and City Council passed Ordinance Number O-17172 requiring fire sprinkler retrofitting for high rise buildings.
- 1991, the Mayor and City Council extended the deadline for compliance from 1996 to 1999, \$1,200,000 appropriation for the South Course Renovation through the FY 2006 budget process.
- 2001, Ordinance Number O-18946 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofit Ordinance until January 1, 2004.
- 2004, Ordinance Number O-19254 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofitting Ordinance until January 1, 2008.
- 2008, Ordinance Number O-19696 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofitting Ordinance until January 1, 2009.
- On December 2, 2008, an ordinance to extend the compliance deadline for the Fire Sprinkler Retrofitting Ordinance was heard, but not approved by the City Council.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The City of San Diego's City Administration Building is one of the few remaining high rise building without complete fire sprinkler protection in the City of San Diego.

Oskui/Jarrell

Staff: Darren Greenhalgh - (619) 533-6600  
Nina Fain - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:03 p.m. – 2:25 p.m.)

MOTION BY EMERALD TO INTRODUCE WITH DIRECTION TO 1) GRANT AN EXTENSION OF THE COMPLIANCE DATE TO FEBRUARY 1, 2010; 2) HAVE THE MAYOR ISSUE A REQUEST FOR PROPOSAL BY JUNE 1, 2009, WITH AFFIRMATION BY COUNCIL; 3) RETURN TO COUNCIL WITH A REPORT ON THE CONCOURSE REDEVELOPMENT AND RETROFIT BY DECEMBER 1, 2009; 4) IMMEDIATELY IMPLEMENT DISASTER PREPAREDNESS AND EMERGENCY EVACUATION PROGRAMS INCLUDING REGULAR DRILLS AT ALL CITY-OWNED FACILITIES; AND 5) TO BE ADOPTED TUESDAY, MARCH 10, 2009. Second by Frye. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-nay, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.



ITEM-331: Appropriation of San Diego Medical Services Enterprise Retained Earnings and System Savings.

(See Report to the City Council No. 08-088; EMS System Retained Earnings and Savings PowerPoint; and Independent Budget Analyst Report No. 06-61.)

**TODAY'S ACTION IS:**

Hold the first public hearing of the ordinance:

(O-2009-70) HEARING HELD

Hold the first hearing of the Ordinance amending Ordinance No. O-19774 (New Series) Entitled “An Ordinance Adopting the Annual Budget for the Fiscal Year 2009 and Appropriating the Necessary Money to Operate the City of San Diego for said Fiscal Year” by authorizing the appropriation of up to \$1,399,688.76 from Fund 10246, Dept 121, Fund Balance, for the purpose of funding enhancements to the City’s EMS System and authorizing such expenditures;

Authorizing the City Comptroller to expend up to \$1,399,688.76 for the purpose of funding EMS System enhancements, as describe in the executive summary.

**PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE'S  
RECOMMENDATION:**

On 6/19/08, PS&NS voted 4 to 0 to refer this item to full City Council to authorize appropriation of funds as outlined within the report. (Councilmembers Faulconer, Young, Maienschein, and Hueso voted yea.)

**SUPPORTING INFORMATION:**

San Diego Medical Services (SDMSE) is a public/private partnership formed as a limited liability company (LLC) between the City and Rural/Metro of San Diego. On December 4, 2006, Council adopted Resolution R-302155 changing SDMSE's profit distribution policy. The company distributes profit to the partners after considering all operating expenses, ensuring a minimum \$500,000 cash reserve is maintained, and projecting expenses forward.

The City currently holds profit in the amount of \$1,674,199.25 in the EMS Special Revenue Fund. During the previous Council discussion on how profits are distributed (outlined in Resolution R-302155), it was requested that staff return to the Public Safety and Neighborhood Services Committee with a description on how this profit should be expended.

Fire-Rescue has identified EMS system needs upon which these retained earnings should be appropriated and expended. These needs include:

1. Fire Station 38 (Mira Mesa) Ambulance Crew Quarters Buildout: \$400,000
2. Quality Assurance Analysis and Reporting Tools (FirstWatch Biosurveillance): \$30,000
3. Online EMS Education Program: \$35,000
4. Equipment for Mass Decontamination of EMS Resources and Facilities: \$40,000
5. Mobile (Ambulance and Fire Apparatus) Gateways for Data Transmission: \$200,000
6. Acquire New Dynamic System Status Management Utility for Ambulances: \$295,000
7. Improve Station Alerting Systems for EMS: \$28,000
8. Improve EMS System Communication Interoperability with Lifeguards: \$45,000
9. Addition of Automated External Defibrillators (AED) to Staff Vehicles: \$100,000

In addition to retained earnings, Fire-Rescue maintains a fund balance from EMS system savings realized through staffing changes. City Manager's Report 04-219 outlines that EMS systems savings shall be allocated toward enhancements to the EMS system. Staff recommends that the savings in the amount of \$225,489.51 be appropriated toward:

1. Cardiac Monitor/Defibrillators Improvements and Upgrades
2. Improvements to the Electronic Patient Care Record Program

FISCAL CONSIDERATIONS:

No impact to the general fund. This report discusses appropriation of retained earnings and savings.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Resolution R-302155: Profit Distribution Methodology for SDMSE; Resolution R-292161; IBA Report #06-61. Heard at Public Safety and Neighborhood Services on June 19, 2008; referred to City Council to authorize appropriation of funds as outlined within the report with a 4-0 vote.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: NA

KEY STAKEHOLDERS AND PROJECTED IMPACTS: NA

Jarman/Olen

**NOTE:** Today's action is the first public hearing. See the docket of Tuesday, March 3, 2009, for the second public hearing and the introduction and adoption of the Ordinance.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:24 a.m. – 11:33 a.m.)

MOTION BY YOUNG TO HOLD THE FIRST PUBLIC HEARING. Second by Faulconer. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.



ITEM-332: First Amendment to Agreement with MWH America, Inc., for Expert Consulting Services in Connection with the San Diego Bay Shipyard Sediment Cleanup. (Azalea/Hollywood Park, Barrio Logan, Broadway Heights, Castle, Cherokee Point, Chollas Creek, Colina Del Sol, Corridor, El Cerrito, Emerald Hills, Encanto, Fairmont Park, Fairmont Village, Fox Canyon, Golden Hill, Islenair, Jamacha Lomita, Lincoln Park, Logan Heights, Mountain View, Mt. Hope, North Park, Oak Park, and Redwood Community Areas. Districts 3, 4, 7, and 8.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-846 Corr. Copy)      ADOPTED AS RESOLUTION R-304677

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Amendment to the Agreement with MWH Americas, Inc., for expert consulting services related to Regional Water Quality Control Board Tentative Cleanup & Abatement Order No. R9-2005-0126, under the terms and conditions set forth in the First Amendment to Agreement in Exercise of Option;

Authorizing the Mayor and the City Attorney to tender invoices of MWH Americas under the First Amendment to the City's insurance carriers for payment;

Declaring that the above activity is not a project and therefore is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15060(c)(2) and 15306 because it is data collection that will not result in a physical change to the environment.

**STAFF SUPPORTING INFORMATION:**

The San Diego Regional Water Quality Control Board (RWQCB) issued Tentative Cleanup and Abatement Order No. R9-2005-0126 on April 29, 2005 (TCAO). The TCAO names the City of San Diego and five other responsible parties as "Dischargers" of pollutants to San Diego Bay in the area of shipyards and the Chollas Creek mouth. The TCAO proposes to order those parties to perform a large scale cleanup.

The RWQCB commenced an administrative process to hear, evaluate and establish cleanup levels and liability. Due to the complexity of scientific and other factual issues, the RWQCB and the parties have submitted to mediation since September 2008. If the mediation does not result in a settlement, the administrative hearing process will be resumed and a final order will be entered. Throughout this process the City has required extensive specialized expert consulting services, technical recommendations, and meeting attendance/presentations regarding contaminated sediments at the NASSCO and BAE Systems shipyards adjacent to San Diego Bay. An initial agreement with MWH for expert technical services was approved on October 8, 2008, under the Mayor's authority.

The original agreement provided a cost not to exceed \$193,447. The complexity of the case issues and the substantial possible costs of cleanup have resulted in the scheduling of numerous extended mediation sessions where expert services are essential. There is also a need for additional studies, reports, and scientific investigation. This current action provides those additional services through a First Amendment for an amount not to exceed \$515,402, with a total Agreement value not to exceed \$708,849.

The facts relating to Tentative Cleanup and Abatement Order No. R9-2005-0126 and MWH's work for the City will be presented in executive session due to the potential for litigation in this matter.

FISCAL CONSIDERATIONS:

The City has tendered claims on insurance policies in this matter. An insurance carrier has paid the initial \$193,447 and has given approval to cover all proposed costs under this First Amendment. There is no direct fiscal impact to the City from this action apart from the depletion of coverage on that one policy.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE):

Not Applicable: The original agreement was executed on October 8, 2008, pursuant to a sole source contract issued under the Mayor's authority at the direction of the City Attorney's Office.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The facts relating to this tentative cleanup and abatement order and litigation will be presented in closed session.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None for this action.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

No projected impacts anticipated with this action.



Heinrichs/Jarrell

Staff: Fritz Ortlieb - (619) 236-6318  
Frederick M. Ortlieb - Deputy City Attorney

FILE LOCATION: MEET

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

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



ITEM-333: Fiscal Year 2010 Community Development Block Grant Program (CDBG) and Emergency Shelter Grant Program (ESG) Entitlements. (Citywide.)

(See Report to the City Council No. 09-009; memoranda from Councilmember Lightner dated 1/30/2009, Councilmember Faulconer dated 2/5/2009, Councilmember Gloria dated 2/1/2009, Councilmember Young dated 2/3/2009, Councilmember DeMaio dated 2/3/2009, Councilmember Frye dated 2/6/2009, Councilmember Emerald dated 2/6/2009, Councilmember Hueso dated 2/5/2009; and Jay Goldstone both dated 1/30/2009.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-864) RETURNED TO MAYOR'S OFFICE

Authorizing the City Comptroller to accept Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development for the City's FY 2010 CDBG Program;

Authorizing the City Comptroller to accept Emergency Shelter Grant (ESG) funds from the U.S. Department of Housing and Urban Development for the City's FY 2010 ESG Program;

Approving the funding allocations and recommendations for the City's FY 2010 CDBG Program and ESG Program, set forth in Report to the City Council No. 009-09, contingent upon certification of fund availability by the City Comptroller;

Declaring that the City's Funding Obligations and those projects and programs approved for CDBG and ESG funding be incorporated into the City's FY 2010 Five-Year Consolidated Plan and Annual Action Plan;

Authorizing the Mayor, or his designee, to negotiate and execute agreements, with those agencies for which projects and programs have been approved for CDBG and ESG funding, contingent upon certification of fund availability by the City Comptroller;

Authorizing the City Comptroller to appropriate and expend the CDBG funds for the City's Funding Obligations and those projects and programs approved for CDBG and ESG funding, contingent upon adoption of the FY 2010 Appropriation Ordinance and contingent upon certification of funds availability by the City Comptroller;

Authorizing the Mayor, or his designee, to suspend the initiation of new HUD Section 108 Loans during FY 2010 that rely on CDBG and/or General Funds as a repayment source;

Authorizing the City Comptroller to accept the funding appropriations from SDHC for the Homeless Emergency Winter Shelter Program and the Regional Taskforce on the Homeless projects, contingent upon approval by the Housing Commission Board and the Housing Authority and contingent upon certification of fund availability by the City Comptroller.

**STAFF SUPPORTING INFORMATION:**

The Federal Housing and Community Development Act of 1974 established the Community Development Block Grant (CDBG) Program, which is administered by the Department of Housing and Urban Development (HUD). The City of San Diego (City) has received CDBG Entitlement funds annually since its inception. The overarching goal of the CDBG Program is to develop viable urban communities through the provision of decent housing, suitable living environments, and economic activities for persons of low and moderate income. The City has not yet received confirmation from HUD of the federal entitlement amounts to be awarded to the City for FY 2010.

However, HUD has indicated that the City should proceed with an allocation process to meet the existing deadlines. All indications are that Congress will be adopting a continuing resolution for the entire federal fiscal year (October 1, 2009 through September 30, 2010). As such, the FY 2010 CDBG entitlement budget being presented for approval represents an estimated breakdown that includes a 10% reduction from FY 2009. Based on the 10% reduction formula, the City's CDBG entitlement grant amount for FY 2010 totals \$13,366,448 which is a \$1,486,073 reduction from Fiscal Year 2009. Once actual FY 2010 CDBG and ESG Entitlement Funds are confirmed by HUD, a second allocation hearing will be scheduled to incorporate additional increases and/or decreases to the funding levels being presented in this action.

As with this action, additional FY 2010 CDBG Entitlement funding considerations will be limited to the 107 eligible FY 2010 CDBG Applications. In accordance with Council Policy 700-02 "Community Development Block Grant Program", each Councilmember identifies their respective funding priorities in a written memorandum, which is then submitted to the CDBG Office. The Mayor's Office puts forth funding recommendations for discretionary funding in the "Citywide" category and forwards them to the CDBG Office. The City is also required to make recommendations for the ESG Program. For FY 2010, the recommendation is to continue to allocate the City's ESG entitlement funds to the City's Cortez Hill Family Center and the Homeless Emergency Winter Shelter Program. The ESG budget for two of the City's homeless services projects represents a 10% reduction for FY 2010, which is \$598,129. In addition, SDHC has committed funds toward the Homeless Emergency Winter Shelter Program (\$380,000) and the Regional Task Force on the Homeless project (\$45,000). Acceptance of these funds for these projects is also being presented to Council for approval.

FISCAL CONSIDERATIONS:

Funding available from the CDBG and ESG Entitlement Programs.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The FY 2010 CDBG and ESG application process was noticed on the City of San Diego's website, and notices were mailed to the City's CDBG mailing database which includes names and addresses of over 500 potential applicants. The Availability of Funds was also noticed in the San Diego Union Tribune newspaper and the Daily Transcript.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Residents of low and moderate income communities; community based organizations; community planning groups; and other community development organizations.

Staff: Angela Nazareno - (619) 236-6944  
Paul F. Prather - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:15 p.m. – 5:43 p.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR'S OFFICE FOR FURTHER REVIEW, WITH A TARGET RETURN DATE TO COUNCIL OF TUESDAY, MARCH 3, 2009. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.



ITEM-334: Jackson Marshall Elementary School Public Right-of-Way and Easement Vacations, Project No. 20163. A request for Right-of-Way Vacation of portions of 51<sup>st</sup> Street, 52<sup>nd</sup> Street, Polk Avenue, and unnamed alleys, the vacation of a general utility easement and an easement for road purposes, and an associated Parcel Map. (Mid-City/City Heights Community Plan Area. District 4.)

Matter of approving, conditionally approving, modifying or denying a request for Right-of-Way Vacation of portions of 51<sup>st</sup> Street, 52<sup>nd</sup> Street, Polk Avenue, and unnamed alleys, the vacation of a general utility easement and an easement for road purposes, and an associated Parcel Map within the Mid-City/City Heights Community Plan Area.

(Public Right-of-Way Vacation No. 47485/Easement Vacation No. 524951/Parcel Map No. 524952.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-532 Cor. Copy 2) ADOPTED AS RESOLUTION R-304678

Adoption of a Resolution approving a vacation of a portion of 51<sup>st</sup> Street, 52<sup>nd</sup> Street, and Polk Avenue for general utility and public street purposes and approval of a parcel map for Jackson Marshall Elementary School.

Directing the City Clerk to record a certified copy of this resolution, with attached exhibits, attested by her under seal, in the Office of the County Recorder.

**OTHER RECOMMENDATIONS:**

No Planning Commission recommendation is required for this Process Five decision.

On December 5, 2005, the City Heights Area Planning Committee voted 13-0-1 (Chair not voting) in favor of the Right-of-Way and Easement Vacations, recommending that the greatest possible number of Safe Routes To School elements be implemented on the streets leading to the school.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Approve the vacation of a portion of 51<sup>st</sup> Street, 52<sup>nd</sup> Street, Polk Avenue, and unnamed alleys, the vacation of a general utility easement and an easement for road purposes, and an associated Parcel Map within the Mid-City/City Heights Community Plan Area.

**STAFF RECOMMENDATION:**

**Approve** Public Right-of-Way Vacation No. 47485, Easement Vacation No. 524951, and Parcel Map No. 524952.

**EXECUTIVE SUMMARY:**

The school site is located east of Interstate 15, south of Orange Avenue, between Altadena Avenue and 52<sup>nd</sup> Street, in the Mid-City/City Heights Community Plan Area. The San Diego Unified School District has requested the vacations of the public right-of-ways and associated easements to allow for the construction of Jackson/Marshall Elementary School at this location. These public right-of-ways and easements are no longer required. The easements were for general utility and public street purposes.

To approve the requested vacations, the following four findings must be made.

1. There is no present or prospective use for the purpose for which the right of way was originally acquired.
2. The public will benefit from the vacation through improved utilization of land.
3. The vacation is consistent with the General Plan or an approved Community Plan.
4. The public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

City Staff has confirmed that there is no present or prospective use for the right-of-way or easements for which they were originally acquired, and that no public use of a like nature is anticipated. The vacations would allow for construction of a school in an established neighborhood. In addition, new public improvements would be constructed around the school location. As such, the public would benefit from the vacation through improved utilization of the land. The Mid-City Communities Plan identifies this area for an elementary school. As this proposed vacation would support the construction of the school at this location, the project is consistent with the community plan. Transportation staff has determined that the public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

In addition, the San Diego Unified School District has included Safe Routes To School elements by including traffic calming improvements, ladder cross walks and enhanced demarcation and signage at key intersections.

FISCAL CONSIDERATIONS:

No cost to the city. The applicant has deposited sufficient funds to cover associated project processing costs.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: No previous City Council action.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On December 5, 2005, the City Heights Area Planning Committee voted 13-0-1 (Chair not voting) in favor of the Right-of-Way and Easement Vacations, recommending that the greatest possible number of Safe Routes To School elements be implemented on the streets leading to the school.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

San Diego Unified School District.

Broughton/Anderson/MD

**NOTE:** This activity is covered under Final 52<sup>nd</sup> Street Area School Environmental Impact Report SCH. No. 1999101128 dated May, 2003, certified by Board of Education on June 13, 2003. The activity is adequately addressed in the environmental documents 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 CEQA review per CEQA Guidelines Section §15060(c)(3) and 15378(c).

Staff: Morris Dye – (619) 446-5201  
Shannon Thomas – Deputy City Attorney

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

FILE LOCATION: STRT-J-2996 (39) & DEED F-10328 (03)

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:38 p.m.)

MOTION BY YOUNG TO ADOPT. 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-335:** Solana Beach Elementary School Public Right-of-Way and Easement Vacations, Project No. 71130. A request for Right-of-Way Vacation of a portion of Kelsford Place and sewer, drainage, general utility, and access easements, and an associated Parcel Map. (Carmel Valley Community Plan Area. District 1.)

Matter of approving, conditionally approving, modifying or denying a request for a Right-of-Way Vacation of a portion of Kelsford Place, as well as, sewer, drainage, general utility, and access easements, and an associated Parcel Map within the Carmel Valley Community Plan Area associated with Solana Beach Elementary School. All costs paid by the applicant. Right-of-way no longer required by the City. The school site is located east of Interstate 5, north of Highway 56, south of Del Mar Heights Road on Townsgate Drive in the Carmel Valley Community Plan Area.

(Public R-O-W Vacation No. 475273/General Utility and Access, and Sewer and Drainage Easement Vacation No. 475284/Parcel Map No. 216468.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-449 Cor. Copy)      ADOPTED AS RESOLUTION R-304679

Adoption of a Resolution approving a vacation of a portion of Kelsford Place for general utility and street purposes and approval of a parcel map for Solana Beach Elementary School.

Directing the City Clerk to record a certified copy of this resolution, with attached exhibits, attested by her under seal, in the Office of the County Recorder.

**OTHER RECOMMENDATIONS:**

No Planning Commission recommendation is required for this Process Five decision.

On November 8, 2005, the Carmel Valley Community Planning Board voted unanimously in favor of the Right-of-Way Vacation, with no recommended conditions.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

The vacation of portions of Kelsford Place and sewer, drainage, general utility, and access easements, and an associated Parcel Map within the Carmel Valley Community Plan Area.

**STAFF RECOMMENDATION:**

**Approve** Public Right-of-Way Vacation No. 475273, and General Utility and Access, and Sewer and Drainage Easement Vacation No. 475284, and Parcel Map No. 216468.

**EXECUTIVE SUMMARY:**

The Solana Beach Elementary school site is located east of Interstate 5, north of Highway 56, south of Del Mar Heights Road on Townsgate Drive in the Carmel Valley Community Plan Area.



The Solana Beach Unified School District has requested the vacation of Kelsford Place and various easements in association with the construction of the Solana Beach Elementary School. The public right-of-way and easements are no longer required. The easements were originally granted for general utility and access purposes.

Pursuant to the San Diego Municipal Code and Subdivision Map Act, to approve the requested vacations, the following four findings must be made.

1. There is no present or prospective use for the purpose for which the right-of-way was originally acquired.
2. The public will benefit from the vacation through improved utilization of land.
3. The vacation is consistent with the General Plan or an approved Community Plan.
4. The public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

City Staff has confirmed that there is no present or prospective use for the right-of-way or easements for which they were originally acquired, and that no public use of a like nature is anticipated. The vacations would allow for a school in an established neighborhood. In addition, new public improvements would be constructed around the school location. As such, the public would benefit from the vacation through improved utilization of the land. The Carmel Valley Community Plan identifies this area for an elementary school. As this proposed vacation would support the school at this location, the project is consistent with the community plan. City Staff has determined that the public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

FISCAL CONSIDERATIONS:

No cost to the city. The applicant has deposited funds to cover project processing costs.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: No previous City Council action.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On November 8, 2005, the Carmel Valley Community Planning Board voted unanimously in favor of the Right-of-Way Vacation, with no recommended conditions.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Solana Beach School District.

Broughton/Anderson/MD

**NOTE:** The proposed street vacations were analyzed in the Solana Beach School District Final Environmental Impact Report Addendum, Elementary School #6, dated April 22, 2008. The addendum concluded that the vacation of the utility easement and the right-of-way do not impact the final findings or change the conclusions of the EIR dated December 2002. 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 CEQA review per CEQA Guidelines Section §15060(c)(3) and 15378(c).

Staff: Morris Dye – (619) 446-5201  
Shannon Thomas – Deputy City Attorney

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

FILE LOCATION: STRT-J-2991 (39) & DEED F-10329 (03)

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:38 p.m.)

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



**ITEM-336:** Laura Rodriguez Right-of-Way Vacation, Project No. 8346. An application for a Public Right-of-Way Vacation to vacate a portion of Greely Avenue and easements and approval of a Parcel Map associated with Laura Rodriguez Elementary School. (Southeastern San Diego Community Plan Area. District 8.)

Matter of approving, conditionally approving, modifying or denying a request for Right-of-Way Vacation of portions of Greely Avenue between 31<sup>st</sup> street and 32<sup>nd</sup> street, vacation of sewer, drainage, and general utility easements, and approval of associated parcel map associated with Laura Rodriguez Elementary School. All costs paid by the applicant. Right-of-way no longer required by the City. The school site is located west of Interstate 15, north of Interstate 5, south of Martin Avenue, and east of 31<sup>st</sup> Street, in the Southeastern San Diego Community Plan Area.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution :

(R-2009-148 Cor Copy)      ADOPTED BY RESOLUTION R-304680

Adoption of a Resolution approving the vacation of Greely Avenue between 31<sup>st</sup> Street and 32<sup>nd</sup> Street, vacation of sewer, drainage and general utility easements, and associated parcel map;

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

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Approve the vacation of a portion of Greely Avenue between 31<sup>st</sup> street and 32<sup>nd</sup> street, vacation of sewer, drainage, and general utility easements, and approval of associated parcel map within the Southeastern San Diego Community Plan area.

**STAFF RECOMMENDATION:**

**APPROVE** Public Right-of-Way Vacation No. 18106, Easement Vacation No. 562806 and Parcel Map No. 100835.

**EXECUTIVE SUMMARY:**

The school site is located west of Interstate 15, north of Interstate 5, south of Martin Avenue, and east of 31<sup>st</sup> Street, in the Southeastern San Diego Community Plan Area. The San Diego Unified School District has requested the vacations of the Public Right-of-Way and associated easements to allow for construction of Laura Rodriguez Elementary School at this location. These public rights-of-way and easements are no longer required.

To approve the requested vacations, the following four findings must be made.

1. There is no present or prospective use for the purpose for which the right of way was originally acquired.
2. The public will benefit from the vacation through improved utilization of land.
3. The vacation is consistent with the General Plan or an approved Community Plan.

4. The public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

City staff has confirmed that there is no present or prospective use for the right-of-way or easement for which they were originally acquired, and that no public use of a like nature is anticipated. The vacations would allow for construction of a school in an established neighborhood. In addition, new public improvements would be constructed around the school location. As such, the public would benefit from the vacation through improved utilization of the land. The Southeastern San Diego Community Plan identifies this area for an elementary school. As this proposed vacation would support the school at this location, the project is consistent with the community plan. City staff has determined that the public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

FISCAL CONSIDERATIONS:

No cost to the city. The applicant has deposited sufficient funds to cover associated project processing costs.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

No previous City Council action.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On September 9, 2005, the Southeastern San Diego Community Planning Group voted 12-0-0 in favor of the Right-of-Way and easement vacations.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

San Diego Unified School District.

**NOTE:** This activity is adequately addressed under Final Edison/Hamilton/Parks Area Elementary School Environmental Impact Report SCH No. 2000101040 dated October 2002, certified by the Board of Education on April 13, 2004, and there is no change in circumstances, 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 CEQA review per CEQA Guidelines Section 15060(c)(3) and 153788(c).

Broughton/Anderson/MD

Staff: Morris Dye – (619) 446-5201  
Adam Wander – Deputy City Attorney

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

**FILE LOCATION:** STRT-J-2990 (39)

**COUNCIL ACTION:** (Time duration: 2:25 p.m. – 2:38 p.m.)

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

ITEM-337: Lincoln High School Public Right-of-Way and Easement Vacations. Project No. 5318. A request for a vacation of portions of 48<sup>th</sup> Street, Franklin Avenue, two unnamed alleys, and sewer and water easements, and an associated Parcel Map within Lincoln High School. (Southeastern San Diego, Encanto Neighborhoods Community Plan Area. District 4.)

Matter of approving, conditionally approving, modifying or denying a request for a vacation of portions of 48<sup>th</sup> Street, Franklin Avenue, two unnamed alleys, and sewer and water easements, and an associated Parcel Map within Lincoln High School in the Southeastern San Diego Encanto Neighborhoods Community Plan Area.

(Public Right-of-Way Vacation No. 8784/Sewer and Water Easement Vacation No. 521627/ Parcel Map No. 74134.)

**STAFF’S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-533 Cor. Copy)      ADOPTED AS RESOLUTION R-304681

Adoption of a Resolution of the Council of the City of San Diego approving a vacation of portions of 48<sup>th</sup> Street, and Franklin Avenue for General Utility for public street purposes and approval of a Parcel Map for Lincoln High School;

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

**OTHER RECOMMENDATIONS:**

The City of San Diego Land Development Code defines the proposed action as a “Summary Vacation” and as such, no Planning Commission recommendation is required for this Process Five decision.

The Encanto Neighborhoods Community Planning Board on September 9, 2004, voted 9-0-1 in favor of the Right-of-Way and Easement Vacations, with no recommended conditions.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

The vacation of portions of 48<sup>th</sup> Street, Franklin Avenue, two unnamed alleys, and Sewer and Water Easement Vacation No. 521627, and Parcel Map No. 74134.

**STAFF RECOMMENDATION:**

**Approve** Public Right-of-Way Vacation No. 8784, Sewer and Water Easement Vacation No. 521627, and Parcel Map No. 74134.

**EXECUTIVE SUMMARY:**

The school site is located east of Interstate 805, south of Imperial Avenue, north of Ocean View Boulevard between 47<sup>th</sup> Street and Willie James Jones Avenue, in the Southeastern San Diego (Encanto Neighborhoods) Community Plan Area. The San Diego Unified School District has requested the vacations of the public Rights-of-Way and associated easements to allow for construction of Lincoln High School at this location. These public rights-of-way and easements are no longer required. The easements were for general utility purposes.

To approve the requested vacations, the following four findings must be made.

1. There is no present or prospective use for the purpose for which the right-of-way was originally acquired.
2. The public will benefit from the vacation through improved utilization of land.
3. The vacation is consistent with the General Plan or an approved Community Plan.
4. The public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

City Staff has confirmed that there is no present or prospective use for the right-of-way or easements for which they were originally acquired, and that no public use of a like nature is anticipated. The vacations would allow for construction of a school in an established neighborhood. In addition, new public improvements would be constructed around the school location. As such, the public would benefit from the vacation through improved utilization of the land. The Southeastern San Diego Community Plan identifies this area for a high school. As this proposed vacation would support the school at this location, the project is consistent with the community plan.

Transportation staff has determined that the public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

FISCAL CONSIDERATIONS:

No cost to the city. The applicant has deposited sufficient funds to cover associated project processing costs.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: No previous City Council action.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On September 9, 2004 the Encanto Neighborhoods Community Planning Board voted 9-0-1 in favor of the Right-of-Way and Easement Vacations, with no recommended conditions.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

San Diego Unified School District.

Anderson/Broughton

**LEGAL DESCRIPTION:**

See resolution for a detailed legal description of project location.

**NOTE:** The proposed street vacations were analyzed in the Final Environmental Impact Report for the Proposed Demolition, Reconstruction, and Expansion of Lincoln High School, dated August, 2002, and certified by Board of Education on September 10, 2002. The activity is adequately addressed in the environmental documents and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental documents adequately covered in this activity as part of the previously approved project, the activity is not a separate project for purposes of CEQA review per CEQA Guidelines Section §15060(c)(3) and 15378(c).

Staff: Morris Dye – (619) 446-5201  
Shannon Thomas – Deputy City Attorney

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

**FILE LOCATION:** STRT-J-2999 (39) & DEED F-10327 (03)

**COUNCIL ACTION:** (Time duration: 2:25 p.m. – 2:38 p.m.)

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



**ITEM-338:** Dudley Street Vacation. Project No. 43570. A request to vacate an unimproved portion of the Dudley Street public right-of-way between Gage Drive and Albion Street adjacent to 3521 Dudley Street and 3520 Dudley Street in the Peninsula community. The purpose for the proposed vacation is to provide privately maintained landscape and street improvements. Public access to the vacated area would be maintained with an access easement. (Peninsula Community Plan Area. District 2.)

Matter of approving, conditionally approving, modifying, or denying a request to vacate an unimproved portion of the Dudley Street public right-of-way between Gage Drive and Albion Street adjacent to 3521 Dudley Street and 3520 Dudley Street in the Peninsula community.



The purpose for the proposed vacation is to provide privately maintained landscape and street improvements. Public access to the vacated area would be maintained with an access easement.

(Public Right-of-Way Vacation No. 82533/CDP No. 209151.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2009-821) ADOPTED AS RESOLUTION R-304682

Adoption of a Resolution ordering vacated the street easement located within the Dudley Street right-of-way in connection with Coastal Development Permit No. 209151, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20256-B, marked as Exhibit "B,"; Reserving therefrom an easement for general utilities and together with ingress and egress for that purpose; and a 20-foot wide pedestrian access easement for the use and enjoyment by the general public;

That said Dudley Street vacation is conditioned upon recording Coastal Development Permit No. 209151. In the event this condition is not completed within three years following the adoption of this resolution, then this resolution shall become void and be of no further force or effect;

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

Subitem-B: (R-2008-828) ADOPTED AS RESOLUTION R-304683

Adoption of a Resolution certifying findings supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference, with respect to Coastal Development Permit No. 209151;

That Coastal Development Permit No. 209151 is granted to Daniel and Susan Frazee and The Morton Family Trust, Owners/Permittees, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

**OTHER RECOMMENDATIONS:**

The City of San Diego Land Development Code defines this action as a “Summary Vacation” which does not require a recommendation from the Planning Commission.

On September 21, 2006, the Peninsula Community Planning Board voted 11-0-2 recommending the project be denied.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

This action is a request to vacate a portion of the partially improved Dudley Street Public Right-of-Way in the Peninsula Community Plan Area.

**STAFF RECOMMENDATION:**

**Approve** Public Right-of-Way Vacation No. 82533;  
and **approve** Coastal Development Permit No. 209151.

The project is requesting a partial vacation of the Dudley Street public right-of-way between Gage Drive and Albion Street in the Peninsula Community Plan Area. The area proposed to be vacated is currently unimproved for vehicle access. The site includes a level padded area which transitions into steep slopes as the right-of-way progresses towards east to Gage.

The proposed vacation area is however landscaped with mature trees and a foot path that provides pedestrian access from Dudley Street. The entire portion of the right-of-way proposed to be vacated would be overlaid with a general utility easement and also include a 20 foot wide pedestrian access easement down the center of the property. Therefore, the proposed vacation would not result in any physical change to the current condition of the neighborhood with the exception of upgrading the landscape and foot path to Americans with Disabilities Act (ADA) standards. The project site is within a fully developed single-family residential neighborhood and the purpose of vacating the right-of-way is to upgrade the existing landscape and enhance the neighborhood amenity.

**Regulatory Framework**

The Land Development Code establishes a process for approving applications to vacate public rights-of-way and includes the applicable findings that a decision maker must make to approve the requested vacation. The findings generally establish that there is no present or prospective use for the right-of-way, either for the use for which it was intended, or a public use of a similar nature; that the public will benefit from the vacation by the improved use of the land; that the

vacation will not adversely affect the applicable land use plan; and that the public facility for which the right-of-way was originally acquired will not be detrimentally affected by the vacation. The Land Development Code defines a right-of-way vacation action as development, and therefore a companion Coastal Development Permit is required in the Coastal Overlay Zone.

Staff has concluded that the purpose and intent for which the public right-of-way was originally dedicated has not been met. The area to be vacated was never improved or utilized as a street and the existing pedestrian access would be maintained via an access easement. The proposed vacation would not adversely affect any existing access to surrounding properties. The right-of-way is not required to provide circulation within the neighborhood and due to the steep topography it would be impractical to utilize the right-of-way as a thoroughfare to Gage Drive. The proposed vacation meets all of the criteria that would allow a decision maker to affirm the required findings. The public would benefit by relinquishing the maintenance and liability associated with the easement and the abutting property owners would benefit from the closure by regaining the vacated portion of the right-of-way for which they own the underlying fee title. The proposed vacation would not adversely affect the Peninsula Community Plan and the proposed vacation would not affect current on-street parking or existing access to adjacent properties. Similarly, Staff has determined that the required findings for the Coastal Development Permit can be affirmed as the proposed vacation would not adversely affect the community plan, would not adversely affect the health, safety or welfare of the neighborhood and would be consistent with the Land Development Code.

FISCAL CONSIDERATIONS:

All of the cost of processing the Public Right-of-Way Vacation application is paid for by the applicants.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The City of San Diego Land Development Code defines the proposed action as a “Summary Vacation” and as such, no Planning Commission recommendation is required for this process five decision. On September 21, 2006, the Peninsula Community Planning Board voted 11-0-2 recommending the project be denied. The applicant claims that he was prepared to give a presentation to the board but the chair would not permit him to do so and instead made a motion to deny the project. The explanation for not hearing the item was that as a matter of policy the board does not support any right-of-way vacation in the Peninsula Community (Attachment 5). The board minutes of September 21, 2006 do not include any discussion explaining the motion or vote (Attachment 6).

This action reversed a previous Peninsula Community Planning Board motion recommending to approve the proposed right-of-way vacation by a vote of 9-0-2 on October 19, 2000 (Attachment 7).

**KEY STAKEHOLDERS:**

Daniel and Susan Frazee, owners 3521 Dudley Street; The Morton Family Trust, owner, 3520 Dudley Street; and William Steen, applicant/civil engineer.

Goldstone/Broughton

**LEGAL DESCRIPTION:**

The 3,600 square-foot site is located at 3520 Dudley Street and 3521 Dudley Street in the RS-1-4 zone of the Peninsula Community. The project site is legally described as a portion of the Dudley Street Right-of-Way established as part of Map No. 1435.

Note: A complete Legal Description for Dudley Street Vacation may be found as Exhibit ‘A’ which is attached to the resolution for Dudley Street Right-of-Way Summary Vacation.

**NOTE:** This activity was determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301-existing facility.

Staff: Patrick Hooper – (619) 557-7992  
Andrea Dixon – Deputy City Attorney

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

**FILE LOCATION:** STRT-J-2995 (39)

**COUNCIL ACTION:** (Time duration: 2:38 p.m. – 2:52 p.m.)

Testimony in Favor by Mike Morton and William Steen.

Testimony in Opposition by Alexandra Arevazo.

MOTION BY FAULCONER TO ADOPT THE RESOLUTIONS IN SUBITEMS A AND B. Second by Gloria. Passed by the following vote: Lightner-nay, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.



ITEM-339: 7836 El Paseo Tentative Map, Project No. 124540. Appeal of an application for a Tentative Map and Coastal Development Permit to convert 8 existing residential units to condominiums and waive the requirement to underground existing overhead utilities on a (0.35) acre site at 7836 El Paseo Grande between Lowry Terrace and Calle De La Plata. (La Jolla Community Plan Area. District 1.)

Matter of the appeal by the Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation of the decision by the Planning Commission approving an application for a Tentative Map and Coastal Development Permit to convert 8 existing residential units to condominiums and waive the requirement to underground existing overhead utilities on a (0.35) acre site at 7836 El Paseo Grande between Lowry Terrace and Calle De La Plata, in the MF2 Zone of La Jolla Shores Planned District.

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

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

This project was determined to be categorically exempt from the California Environmental Quality Act on April 3, 2008 and the opportunity to appeal that determination ended April 17, 2008.

**STAFF'S RECOMMENDATION:**

Take the following actions:

Subitem-A: (R-2009-916) DENIED APPEAL AND GRANTED MAP,  
ADOPTED AS RESOLUTION R-304684

Granting or denying the appeal and upholding or overturning the Planning Commission's decision to approve Tentative Map No. 426356 including the request to waive the requirement to underground existing overhead utilities to convert eight existing residential units to condominiums, with appropriate findings to support Council action;

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

Subitem-B: (R-2009-915) DENIED APPEAL AND GRANTED PERMIT,  
ADOPTED AS RESOLUTION R-304685

Granting or denying the appeal and upholding or overturning the Planning Commission's decision to approve Coastal Development Permit No. 426369 including the request to waive the requirement to underground existing overhead utilities to convert eight existing residential units to condominiums, with appropriate findings to support Council action;

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

**OTHER RECOMMENDATIONS:**

On November 20, 2008, the Planning Commission voted 5-0-0 to approve Tentative Map No. 426356, including the waiver of the requirement to underground existing overhead utilities; and approve Coastal Development Permit No. 426369 as presented in report PC-08-124.

Ayes: Otsuji, Golba, Naslund, Griswold, Ontai  
Nays: None  
Abstaining: None  
Not present: Schultz, Smiley

On April 22, 2008, the La Jolla Community Planning Association voted 3-0-0 to approve the project without conditions.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Appeal of the Planning Commission's decision to approve Coastal Development Permit No. 426369, Tentative Map No. 426356 and waive the requirement to underground existing overhead utilities to convert eight existing residential units to condominiums at 7836-50 El Paseo Grande, within the La Jolla Shores Planned District.

**STAFF RECOMMENDATION:**

**Deny** the appeal and uphold the Planning Commission's decision to **approve** the Coastal Development Permit and Tentative Map, including the request to waive the requirement to underground existing overhead utilities.

**EXECUTIVE SUMMARY OF ITEM BACKGROUND:**

Coastal Development Permit No. 426369, Tentative Map No. 426356, including the request to waive the requirement to underground existing overhead utilities, to convert eight existing residential units to condominiums was approved by the Planning Commission and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 1). This is a project appeal and not an environmental appeal; therefore, the environmental issues raised are not relevant to this appeal. The project was determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision had expired April 17, 2007.

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

SDMC Sections 125.0440(a)-(h): These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempts condo conversions from six of the eight standard Tentative Map findings.

Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440(a)-(h) apply is incorrect. The two findings that do apply are described below.

SDMC Section 125.0440(b): "The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code." This project has been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although the project does not comply with the current requirements for new construction, the project is allowed to maintain their current configuration because no additional units or expansion are proposed and it is considered previously conforming for density and development standards.

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

This condominium project was approved by the Planning Commission, who was the decisionmaker required to make this finding. Staff believes the intent of this required finding is to respond to "leapfrog" development and to provide necessary public facilities for additional housing in communities. In this instance there is no net loss or gain of housing units, therefore, staff believes this appeal point is not valid.

SDMC Sections 142.1304 and 142.1305: These sections describe the requirements for approving a variance or waiver from the City's inclusionary housing requirements. The project would comply with the City's requirements either by paying an in-lieu fee or by providing onsite affordable housing. This project is not requesting a variance or waiver from the inclusionary housing requirements; therefore, these code sections are not relevant to this approved condominium conversion project.

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



FISCAL CONSIDERATIONS:

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

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On November 20, 2008, the Planning Commission voted 5-0-0 to approve the project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On April 22, 2008, the La Jolla Community Planning Association voted 3-0-0 to approve the project without Conditions.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Owners: Desautels Company (Marc Desautels, President), Applicant: DGB Survey & Mapping, INC.; Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Broughton/Goldstone/HD

Staff: Helene Deisher – (619) 446-5223

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:54 p.m. – 3:02 p.m.)

Testimony in Favor by Mekaela Gladden.

MOTION BY LIGHTNER TO ADOPT STAFF'S RECOMMENDATION TO DENY THE APPEAL, APPROVE TENTATIVE MAP NO. 426356 AND COASTAL DEVELOPMENT PERMIT NO. 426369, INCLUDING THE REQUEST TO WAIVE THE REQUIREMENT TO UNDERGROUND EXISTING OVERHEAD UTILITIES, WITH APPROPRIATE FINDINGS TO SUPPORT COUNCIL ACTION. Second by Emerald. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.



ITEM-340: Petrie Residences, an application for Site Development Permit/Tentative Map/Public Right-of-Way Vacation/Rezone to create two lots, construct one-single family residence, construct an addition to an existing single-family residence, and vacate portions of Walnut Avenue and Eagle Street, on a 0.63-acre site located at 3520 Dove Court (north of Walnut Avenue/Eagle Street). (Uptown Community Plan Area. District 2.)

Matter of approving, conditionally approving, modifying or denying an application for Site Development Permit/Tentative Map/Public Right-of-Way Vacation/Rezone (from RS-1-1 and RS-1-7 to RS-1-4 and RS-1-7 – residential single-unit) to rezone the subject property (will remain single-family residential), create two lots, construct one new, single-family residence, construct an addition to an existing single-family residence, and vacate portions of Walnut Avenue and Eagle Street, on a 0.63-acre site located at 3520 Dove Court (north of Walnut Avenue/Eagle Street), in the current RS-1-1 and RS-1-7 zones and the FAA Part 77 Noticing Area. (Uptown Community Plan Area. District 2.)

(Report to Planning Commission No. PC-08-074/MND No. 18262/ Rezone No. 42905/Public Right-of-Way Vacation No. 42923/Tentative Map No. 42906/Site Development Permit No. 42924/Project No. 18262.)

**STAFF'S RECOMMENDATION:**

Adopt the resolutions in subitems A, B, C, D, E, and introduce the ordinance in subitem F:

Subitem-A: (R-2009-838)                      ADOPTED AS RESOLUTION R-304686

Adoption of a Resolution certifying that Negative Declaration No. 18262, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review, has been reviewed and considered by this Council in connection with the approval of site development permit, tentative map, public right-of-way vacation and rezone for the Petrie Residences Project;

That the Council finds, based upon the Initial Study and any comments received, that there is no substantial evidence that the project will have a significant effect on the environment and therefore the Negative Declaration is 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.

Subitem-B: (R-2009-839) ADOPTED AS RESOLUTION R-304687

Adoption of a Resolution approving Site Development Permit No. 42924, certifying findings supported by minutes, maps and exhibits, all of which are incorporated herein by this reference with respect to Site Development Permit No. 42924;

That Site Development Permit No. 42924 is granted to John R. Petrie, Trustee of the John R. Petrie Trust Agreement, dated July 21, 2004, under the terms and conditions as set forth in the attached Permit which is made a part of this resolution.

Subitem-C: (R-2009-840) ADOPTED AS RESOLUTION R-304688

Adoption of a Resolution approving Tentative Map No. 42906, certifying findings supported by minutes, maps and exhibits, all of which are incorporated herein by this reference with respect to Tentative Map No. 42906;

That Tentative Map No. 42906 is granted to John R. Petrie, Trustee of the John R. Petrie Trust Agreement dated July 21, 2004, Applicant/Subdivider and CDC Civic Engineers, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

Subitem-D: (R-2009-841) ADOPTED AS RESOLUTION R-304689

Adoption of a Resolution approving Street Easement Vacation;

That Eagle Street and Walnut Avenue, as more particularly described on "Legal Description" Exhibits "A" and "Drawing" Exhibit "B," drawings numbers 20313-1-B, 20313-2-B, and 20313-3-B on file in the Office of the City Clerk, which are by this reference incorporated herein and made a part hereof, are ordered vacated;

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

Subitem-E: (R-2009-842) ADOPTED AS RESOLUTION R-304690

Adoption of a Resolution approving street name change;

That the name of Walnut Avenue, more particularly shown on Drawing No. 20361-B attached hereto as Exhibit "A," is changed to Bear Drive;

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

Subitem-F: (O-2009-101) INTRODUCED, TO BE ADOPTED  
TUESDAY, MARCH 10, 2009

Introduction of an Ordinance of the Council of the City of San Diego changing 0.55 acres located at 3520 Dove Court, within the Uptown Community Plan Area, in the City of San Diego, California, from the RS-1-1 Zone into the RS-1-4 and RS-1-7 Zones, as defined by the San Diego Municipal Code. Section 131.0403; and repealing Ordinance No. O-17306 (New Series), adopted May 30, 1989, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

Staff: Michelle Sokolowski – (619) 446-5278  
Shannon Thomas – Deputy City Attorney

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

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

COUNCIL ACTION: (Time duration: 3:02 p.m. – 3:04 p.m.)

MOTION BY FAULCONER TO ADOPT THE RESOLUTIONS IN SUBITEMS A, B, C, D, E, AND INTRODUCE THE ORDINANCE IN SUBITEM F. Second by Gloria. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, 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: 5:43 p.m. – 5:45 p.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Hueso at 5:46 p.m. in honor of the memory of:

Trinie Bowling as requested by Council Member DeMaio.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:45 p.m. – 5:46 p.m.)