

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, MARCH 23, 2009
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Hueso at 2:00 p.m. The meeting was adjourned by Council President Hueso at 3:51 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)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Rogers called the roll:

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

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Pastor Larry Coalson of Horizon Christian Fellowship.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member DeMaio.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

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

CS-1 *Agency Negotiators:* William Kay, Timothy Davis, Scott Chadwick, Judy von Kalinowski, Thom Harpole, Kim Nguyen, Woo-Jin Shim, Lourdes Silva, Valerie VanDeweghe, Javier Mainar, Brian Fennessy, David Ramirez, Robert Kanaski, Paul Cooper, Jan Goldsmith, Tanya Tomlinson, Joan Dawson, William Gersten, Lori Thacker

Employee Organizations: Local 145 International Association of Firefighters AFL-CIO, San Diego Police Officers Association, Municipal Employees Association, AFSCME Local 127 AFL-CIO and Deputy City Attorney Association

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 24, 2009

DCA Assigned: J. Dawson

Discussion with the Mayor and City Council pending contract negotiations with employee unions (Police Officers Association, International Association of Firefighters Local 145, Municipal Employees Association, AFSCME Local 127 and the Deputy City Attorney's Association).

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:39 p.m. - 3:50 p.m.)

Council President Hueso closed the hearing.

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

CS-2 *John Ghiotto, et al. v. City of San Diego, et al.*
San Diego Superior Court Case No. 37-2007-00073878-CU-CR-CTL

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 24, 2009

DCA Assigned: K. Zlotnik

The matter involves a sexual harassment, retaliation, and violation of right to freedom of speech lawsuit against the City and San Diego Fire-Rescue Dept. In Closed Session, the City Attorney will request that the Mayor and City Council consider an appeal.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:39 p.m. - 3:50 p.m.)

Council President Hueso closed the hearing.

CS-3 *Chollas Restoration, Enhancement and Conservancy Community Development Corporation v. City of San Diego*

San Diego Superior Court Case No. 37-2008-00093831-CU-TT-CTL

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 24, 2009

DCA Assigned: J. Gilman

Chollas Restoration, Enhancement and Conservancy Community Development Corporation of San Diego filed a writ of mandate in the San Diego Superior Court alleging violation of the California Environmental Quality Act (CEQA) and other laws. The allegations stem from the City's adoption of a Mitigated Negative Declaration (MND) for Project Number 149112. In Closed Session, the City Attorney's Office will update the Mayor and City Council on the status of the litigation as well as the possibility of settlement.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:39 p.m. - 3:50 p.m.)

Council President Hueso closed the hearing.

CS-4 *City of San Diego v. Onsite Energy, Hess Corporation et al.*

San Diego Superior Court Case No. 37-2008-00075111

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 24, 2009

DCA's Assigned: C. Welch and F. Ortlieb

The City sued Onsite Energy Corporation, Hess Corporation and two Hess subsidiaries for breach of contract and breach of warranty related to an agreement calling for Onsite to plan, design and construct energy conservation measures for the San Diego Police Department Headquarters at 14th and Broadway in San Diego. In Closed Session, the City Attorney will recommend that a settlement reached following mediation be accepted.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:39 p.m. - 3:50 p.m.)

Council President Hueso closed the hearing.

CS-5 *City of San Diego v. Sunroad Enterprises, et al.*
San Diego Superior Court Case No. GIC 877054

REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 24, 2009

DCA Assigned: C. Brock

Case No. GIC 877054 was initiated by the City Attorney to abate the public nuisance created by Sunroad Enterprises' construction of a 12-story, 180-foot building which had been declared a "hazard" to air navigation at the City's Montgomery Field Airport by the Federal Aviation Administration (FAA). Sunroad Enterprises cross-complained against the City claiming the City issued permits for the building and, therefore, the City is responsible for any monetary loss Sunroad may incur. The City Attorney will discuss the status of the pending litigation, associated costs of trial, and Sunroad's settlement proposal.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:39 p.m. - 3:50 p.m.)

Council President Hueso closed the hearing.

ITEM-200: Providing for Defense and Indemnification of Community Planning Groups.

CITY ATTORNEY'S RECOMMENDATION:

Introduce the following ordinance:

(O-2009-96) INTRODUCED AS AMENDED, TO BE ADOPTED ON
TUESDAY, APRIL 14, 2009

Introduction of an Ordinance providing for defense and indemnification of Community Planning Groups. This Ordinance requires the City of San Diego to provide defense and indemnity to the Community Planners Committee (CPC), the Community Planning Groups (CPG), their members and former members, for actions that occur within the scope of those groups' or individuals' participation in the planning process under Council Policies 600-5 and 600-9. The ordinance also sets a minimum of training or education before those covered will fall within its protections. Finally, the Ordinance sets out the time within which a member or group may request defense, and provides that the City Attorney's Office may not withdraw from said defense without the approval of the City Council.

SUPPORTING INFORMATION:

The present indemnification ordinance, Ordinance No. O-17086, was adopted by the Council on April 28, 1999. The present Ordinance provides that the City Attorney will defend and the City will indemnify community planning groups (CPG). In response to concerns from CPG members, the City Attorney's Office has revised the Ordinance to provide better protection for these volunteers. On November 24, 2008, the Council introduced an Ordinance that purported to accomplish this goal. On December 9, 2008, at the second reading, the City Attorney's Office requested a continuance to make a more thorough risk analysis of the proposed Ordinance. On January 12, 2009, the City Attorney's Office submitted a memorandum to the Council, identifying additional risks in that version of the Ordinance. The Council returned the Ordinance to the City Attorney's Office for revision, with direction to include former CPG members, require new CPG members to review the Community Orientation Workshop (COW) training manual, and require the City Attorney to seek Council approval before withdrawing from the defense of a CPG member or former member. This is a request for Council action to approve the revised version of the Defense and Indemnity Ordinance.

SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS: N/A

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

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The Council returned this matter to the City Attorney's Office on January 12, 2009.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The City Attorney's Office has been working closely with the CPC on these revisions. On January 27, 2009, the CPC voted 24-1-1 to support this version of the Ordinance.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Duly-elected and/or appointed members of the CPGs and members of the CPC.

Bellows/Jones

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:11 p.m. – 3:01 p.m.)

MOTION BY GLORIA TO INTRODUCE THE ORDINANCE AS AMENDED WITH A CHANGE TO SECTION 1-B BY ADDING “EITHER ELECTRONICALLY OR IN PERSON” TO THE END OF THE SENTENCE AND STRIKING THE LAST SENTENCE, “*UPON THE AVAILABILITY OF THE COMMUNITY ORIENTATION WORKSHOP ELECTRONICALLY, A PERSON SHALL BE REQUIRED TO ATTEND THE COMMUNITY ORIENTATION WORKSHOP OR PARTICIPATE IN THE ELECTRONIC VERSION.*” DIRECT THE CITY ATTORNEY, RISK MANAGEMENT, AND THE INDEPENDENT BUDGET ANALYST TO LOOK AT ISSUES REGARDING EXTENDING INDEMNIFICATION TO SUBCOMMITTEE AND AD HOC MEMBERS AND REPORT TO LAND USE & HOUSING COMMITTEE AND THEN COUNCIL IN 90 DAYS. 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-201: Cooperative Use Agreement with San Diego Gas & Electric for 2.20-Acre Portion of the Linda Vista Terrace Park. (Linda Vista Community Area. District 6.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2009-100) INTRODUCED, TO BE ADOPTED ON TUESDAY,
APRIL 14, 2009

Introduction of an Ordinance authorizing the Mayor to execute a Cooperative Use Agreement with San Diego Gas & Electric for the 2.20-acre portion of the Linda Vista Terrace Park.

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

STAFF SUPPORTING INFORMATION:

Pursuant to the Site Development Permit and Substantial Conformance Review conditions for the development of Pacific Ridge Apartment Homes (formerly known as Uniti on the Hill), The Developer (Irvine Company) shall:

- 1) provide at the Developer's expense the design and construction of a .73-acre on-site park, and convey the land and the completed park to the City; and
- 2) acquire and develop at Developer's expense 2.20 acres of SDG&E property located adjacent to the on-site park at its western boundary (off-site park) for park and recreation purposes in conformance with the executed Cooperative Use Agreement; and convey the land and completed off-site park to the City;

The City and SDG&E are entering into this Cooperative Use Agreement in compliance with permit conditions for the development of Pacific Ridge Apartment Homes. The execution of this Agreement and the subsequent park development satisfies conditions Nos. 36 & 37 of Uniti on the Hill Project No. 93731 and Pacific Ridge Apartment Homes Substantial Conformance Review Project No. 158871. Two separate requested Council Actions are being processed as companion items in compliance with other permit conditions.

See companion items titled Montgomery Middle School Joint Use Improvements and Montgomery Middle School Joint Use Agreement.

The California Public Utilities Commission (CPUC) must approve the sale of the land prior to signing documents associated with the closing, including the Cooperative Use Agreement. Therefore, the City shall sign the Agreement prior to SDG&E, pending CPUC approval.

FISCAL CONSIDERATIONS:

The total project cost for the park acquisition, design and construction will be paid by the Irvine Company (Developer). This facility will require an on-going maintenance and operational budget for personnel and non-personnel expense. The project has not been designed, therefore the annual cost estimate of \$19,800 (2.20 acres x \$9,000/acre) is based on the Park and Recreation Department's current cost to maintain similar facilities. Maintenance and operational costs for the project will be revised when the project is designed and requested in the Park and Recreation Department Operating Budget in the fiscal year in which it is completed.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Resolution No. PC-4229, Uniti on the Hill, March 8, 2007, Substantial Conformance Review, Uniti on the Hill, July 21, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Park Design process will be consistent with Council Policy 600-33 (Community Notification and Input for City-Wide Park Development Projects).

May 13, 2008 - Community Workshop conducted with the Linda Vista Recreation Council for park General Development Plan.

August 12, 2008 - Linda Vista Recreation Council recommended approval of the General Development Plan with the recommendation that a parking lot, restroom, tot lot and security improvements be included in the design.

September 9, 2008 - Linda Vista Recreation Council reviewed revised GDP recommendation.

October 14, 2008 - Linda Vista Recreation Council unanimously approved the revised GDP.

February 19, 2009 - Park and Recreation Board approved the General Development Plan.

KEY STAKEHOLDERS and PROJECTED IMPACTS (if applicable):

Linda Vista residents that are within one mile of this proposed Neighborhood Park.

EQUAL OPPORTUNITY CONTRACTING COMMITMENT: Not Applicable.

Anderson/Koksuz

Staff: Deborah Sharpe - (619) 525-8261
Jana Garmo - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:03 p.m. – 3:35 p.m.)

MOTION BY FRYE TO INTRODUCE. 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-202: Montgomery Middle School 25-Year Lease and Joint Use Agreement with the San Diego Unified School District for Construction, Operation, Maintenance, and Lease of Turfed Fields. (Linda Vista Community Area. District 6.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2009-98) INTRODUCED, TO BE ADOPTED ON TUESDAY,
APRIL 14, 2009

Introduction of an Ordinance authorizing the Mayor, or his representative, to execute, for and on behalf of the City, a Twenty-Five Year Lease and Joint Use Agreement with the San Diego Unified School District (District) for construction, operation, maintenance, and lease of turf fields at Montgomery Middle School, under the terms and conditions set forth in the Agreement;

Declaring that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15061(b)(3).

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

STAFF SUPPORTING INFORMATION:

This Joint Use Agreement provides for the joint use of recreational facilities on approximately 4.0 acres at the Montgomery Middle School and Associated ADA Improvements to comply with all state and Federal Accessibility Guidelines and City Standards for a term of twenty-five years.

Phase I recreational facilities will include a turf-ed multi-purpose field, security lighting, decomposed granite running track, accessibility improvements, and miscellaneous landscaping. Phase II recreational facilities will include site furnishings, accent plantings, and enhanced gateway treatments.

The implementation of this Project is in compliance with permit condition #36 of Uniti on the Hill Project No. 93731 and Pacific Ridge Apartment Homes Development Substantial Conformance Review Project No. 158871.

FISCAL CONSIDERATIONS:

Annual maintenance costs are estimated to be \$25,500 which will be requested in the Park and Recreation Department Operating Budget in Fiscal Year 2011. See companion item titled Montgomery Middle School Joint Use Improvements.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Resolution No. PC-4229, Uniti on the Hill, March 8, 2007, Substantial Conformance Review, Uniti on the Hill, July 21, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Approval recommended by the Linda Vista Recreation Council - February 10, 1998.
Approval recommended by the Park and Recreation Board, Design Review Committee - March 1998.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Linda Vista residents that are within 1 mile of the Joint Use Facility and the San Diego Unified School District.

Anderson/Koksuz

Staff: Deborah Sharpe - (619) 525-8261
Shannon M. Thomas - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:03 p.m. – 3:35 p.m.)

MOTION BY FRYE TO INTRODUCE. 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-203: Grant Application to the State of California for the Montgomery Middle School Joint Use Improvements. (Linda Vista Community Area. District 6.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-835) ADOPTED AS AMENDED AS RESOLUTION R-304731

Authorizing the Mayor, or his representative, to make application to the State of California for \$69,905 in Per Capita grant funds under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002, improvements to a facility used jointly by the school and the City at Montgomery Academy - Joint Use Improvements, CIP-29-954.0;

Authorizing the Mayor, or his representative, to take all necessary actions to secure grant funding from the State of California;

Authorizing the Comptroller to accept \$69,905 of 2002 Resources Bond Per Capita grant funding for the purpose of constructing the Joint Use Facilities at Montgomery Middle School;

Authorizing the Comptroller to establish a special interest-bearing fund for the grant;

Authorizing the Comptroller to accept \$502,000 of Developer Contribution funding for the purpose of constructing Joint Use Facilities at Montgomery Middle School;

Authorizing the Comptroller to establish a special interest-bearing fund for the Developer Contribution (Developer Contributions/Parks);

Authorizing a \$724,000 increase in the Fiscal Year 2009 Capital Improvements Program Budget for CIP-29-954.0, Montgomery Academy - Joint Use Improvements, \$45,000 from Fund No. 79503, Linda Vista Development Impact Fees, \$107,095 from Fund No. 18542, Community Development Block Grant 2006, \$69,905 from 2002 Resource Bond Capita grant fund, and \$502,000 from Developer Contributions/Parks Fund;

Authorizing the transfer of \$107,095 from Dept. No. 4343, Org. No. 4307, Job Order No. 000001 to CIP-29-954.0, Montgomery Academy - Joint Use Improvements, within Fund No. 18542, Community Development Block Grant 2006;

Authorizing the Comptroller to appropriate and expend \$724,000 from CIP-29-954.0, Montgomery Academy - Joint Use Improvements, as follows: \$45,000 from Unallocated Linda Vista Development Impact Fees, Fund No. 79503, \$107,095 District 6 Community Development Block Grant, Fund No. 18542, \$69,905 from 2002 Resource Bond Capita grant fund, if grant funding is secured, and \$502,000 from Developer Contributions/Parks Fund, for the purpose of constructing the Joint Use Facilities;

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

Declaring that this activity is categorically exempt from CEQA per State CEQA Guidelines 15301 (existing facilities).

STAFF SUPPORTING INFORMATION:

Under the Site Development Permit and Substantial Conformance Review [SCR] condition for the development of Pacific Ridge Apartment Homes (formerly known as Uniti on the Hill), it was intended that the Irvine Company and the City would enter into a reimbursement agreement for construction of the joint use improvements at the Montgomery Middle School, whereby the Irvine Company would contribute \$502,000 and the City would contribute \$452,000 towards the Phase I improvements. The permit conditions included the following requirements:

- 1) Developer shall enter into a park development agreement, acceptable to the Mayor, for the construction of the Montgomery Middle School Joint Use Improvements in accordance with the approved General Development Plan for the Montgomery Middle School Phase I Joint Use Improvements;
- 2) Upon execution of the park development agreement, the Montgomery Academy Phase I Joint Use Improvements shall be completed by June 30, 2010 (which was subsequently extended by both parties per letter agreement to January 30, 2011), and the Developer shall be entitled to cash reimbursement for an amount not to exceed that which is identified in the agreement. The Developer agrees to accept City funds as compensation for a portion of the costs, which exceed the Developer's obligation (\$502,000);

- 3) If a park development agreement has not been executed between the Developer and the City, and a joint use agreement has not been executed between the City and the San Diego Unified School District prior to February 28, 2009, (which was subsequently extended by both parties per letter agreement to May 28, 2009) the Developer shall be relieved of all obligation to construct the joint use improvements to the Montgomery Middle School and shall instead pay the \$502,000.

A joint use agreement has been negotiated and approved by the School Board. Over the past few months, the Developer and City have been actively negotiating a park development agreement in good faith to meet the permit conditions within the deadlines. However, the negotiations regarding the park development agreement have ceased because the Irvine Company determined that they could not meet City-mandated contract requirements in Municipal Code Chapter 2, Article 2, Division 35: Nondiscrimination in Contracting; therefore, pursuant to permit conditions, the Irvine Company shall be relieved of all obligation to construct the joint use improvements to the Montgomery Middle School and shall instead pay the \$502,000.

Therefore, consistent with the permit conditions and the SCR extended deadlines indicating the parties' intention that the Montgomery Middle School Phase I Joint Use Improvements would be constructed prior to January 30, 2011, the City's position is that the Irvine Company pay the developer contribution of \$502,000 upon expiration of the May 28, 2009, deadline in order for the project to be implemented as a City Contract through the Engineering & Capital Projects Department. Failure of the Developer to pay the \$502,000 at that time will jeopardize the feasibility of the project due to grant requirements for project completion by January 31, 2011.

Payment of the \$502,000 satisfies Conditions No. 36b, 36c, and 36d of Uniti on the Hill Project No. 93731 and Pacific Ridge Apartment Homes Development Substantial Conformance Review Project No. 158871. Separate agreements are being processed as companion items in compliance with other permit conditions. See companion items titled Linda Vista Terrace Park Cooperative Use Agreement and Montgomery Middle School Joint Use Agreement.

FISCAL CONSIDERATIONS:

This project is included in the Fiscal Year 2009 Capital Improvement Project Budget (CIP-29-954.0 Montgomery Middle School Joint Use Improvements). Funding in the amount of \$954,000 for Phase I is available and/or identified for this project as follows: \$107,095 from CDBG, \$275,000 from Linda Vista DIF, \$502,000 from Developer Contribution, \$69,905 from Prop 40 Bond Funds.

In March 2002, California voters approved Proposition 40, the \$2.6 billion 2002 State Resources Bond "Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002." On December 8, 2003, the Mayor and City Council approved Resolution R-298699, which included a distribution of the \$11,063,430 Per Capita / RZH Per Capita funds to each Council

District, with a portion of the funding set aside for projects with citywide and regional impact. On February 20, 2004, the City entered into an umbrella contract with the State of California for the 2002 Resources Bond Act Per Capita / RZH Per Capita Grant Program.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Resolution No. PC-4229, Uniti on the Hill, March 8, 2007, Substantial Conformance Review, Uniti on the Hill, July 21, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Approval recommended by Linda Vista Recreation Council - February 10, 1998. Approval recommended by Park and Recreation Board, Design Review Committee - March 1998.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Linda Vista residents that are within ½ mile of this proposed Neighborhood Park.

EQUAL OPPORTUNITY CONTRACTING COMMITMENT: Not Applicable.

Anderson/Koksuz

Aud. Cert. 2900561.

Staff: Deborah Sharpe - (619) 525-8261
Jana Garmo - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:03 p.m. – 3:37 p.m.)

MOTION BY FRYE TO ADOPT THE REVISED RESOLUTION REFLECTING THE MODIFICATIONS SET FORTH IN ATTACHMENT 2 TO THE SUBSTANTIAL CONFORMANCE REVIEW AS PROVIDED IN THE BACK UP MATERIAL. 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-S400: Two actions related to Proposition 84 Grant Application. (Southeastern and Encanto Community Areas. District 4.)

(See memorandum from William Anderson dated 3/18/2009.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2009-967 Cor. Copy) ADOPTED AS RESOLUTION R-304732

Approving the joint application with Groundwork San Diego for an Urban Streams Restoration Grant;

Declaring that if offered such a grant,

1. The Mayor, or designee, is authorized to accept and co-sign a grant agreement with the State of California Resources Agency, Department of Water Resources and Groundwork San Diego for funds to restore a segment of Chollas Creek at the Jackie Robinson YMCA, provided however that prior to Groundwork San Diego obligating any grant funds, there is an agreement between the City and Groundwork San Diego requiring that Groundwork San Diego, their consultants and contractors indemnify the City, as well as obtain insurance in specified amounts naming the City as an additional insured. The agreement would also to allow the City to inspect and monitor all implementation activities including physical improvements and fiscal obligations and expenditures and give the City the right to assume implementation of the project, if necessary.
2. The Mayor is authorized to delegate authority to Groundwork San Diego to provide management and support services required for performance of the work and administration of the grant agreement. Such delegation shall include the authority to submit invoices to the State of California for reimbursement.
3. The Council certifies that the request for grant funds is not considered a project as defined in the California Environmental Quality Act (CEQA) Guidelines Section 15378 and is therefore not subject to CEQA, pursuant to State CEQA Guidelines section 15060(c)(3). If a grant is awarded, the future restoration project would be subject to discretionary review pursuant to the City's Land Development Code and CEQA.

Subitem-B: (R-2009-966)

ADOPTED AS RESOLUTION R-304733

Approving the joint application with the Jacobs Center for Neighborhood Innovation for an Urban Streams Restoration Grant;

Declaring that if offered such a grant,

1. The Mayor, or designee, is authorized to accept and co-sign a grant agreement with the State of California Resources Agency, Department of Water Resources and the Jacobs Center for Neighborhood Innovation to restore a segment of Chollas Creek as part of the development of an affordable housing project near the intersections of Market and Euclid Avenues in San Diego, provided however that prior to the Jacobs Center obligating any grant funds, there is an agreement between the City and the Jacobs Center requiring that the Jacobs Center, their consultants and contractors indemnify the City, as well as obtain insurance in specified amounts naming the City as an additional insured. The agreement would also to allow the City to inspect and monitor all implementation activities including physical improvements and fiscal obligations and expenditures and give the City the right to assume implementation of the project, if necessary.
2. The Mayor is authorized to delegate authority to the Jacobs Center to provide management and support services required for performance of the work and administration of the grant agreement. Such delegation shall include the authority to submit invoices to the State of California for reimbursement.
3. The Council certifies that the request for grant funds is not considered a project and is therefore not subject to CEQA, pursuant to State CEQA Guidelines section 15060(c)3. If a grant is awarded, the future restoration project would be subject to discretionary review pursuant to the City's Land Development Code and CEQA.

STAFF SUPPORTING INFORMATION:

The City has been asked to co-sponsor two applications for Proposition 84 grant funds for restoration projects at Chollas Creek through the River Parkways Program of the State Resources Agency and the Urban Streams Program of the State Department of Water Resources. Applications were due to the State Resources Agency and State Department of Water Resources on November 12, 2008 and have therefore already been submitted. Council action is needed to document the City's support of the plans, indicate the type of environmental document required under California Environmental Quality Act (CEQA) and indicate a willingness to assume

implementation of the project in the event that the sponsoring not-for-profit is unable to complete implementation.

Subitem A - One application is sponsored by Groundwork San Diego and is requesting a total of \$3.8 million from both programs to restore a segment of Chollas Creek at the Jackie Robinson YMCA including removal of a concrete and non-native vegetation, widening of the channel, provision of trails, interpretive exhibits, trees and public art. Subitem B - This application is sponsored by the Jacobs Center for Neighborhood Innovation to widen and stabilize the slopes of the creek, extend a drainage box culvert, construct a plantable retaining wall, protect and enhance native habitat, reduce water pollution, provide public access to the creek, create 800 linear feet of open space and a pedestrian trail, provide interpretive signage and a public observation deck.

FISCAL CONSIDERATIONS:

If either or both grants are approved, the funds would be awarded to the respective sponsoring not-for-profit organization. A separate side agreement between the City and each sponsoring organization would require that the not-for-profit, their consultants and contractors indemnify the City, as well as obtain insurance in specified amounts naming the City as an additional insured. The side agreements would also enable the City to monitor fiscal expenditures in the event that it would be necessary for the City to assume implementation of either project.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On June 13, 2007, the City Council adopted Resolution R-302686 which authorized the City to execute a Cooperative Agreement with the National Park Service for the acceptance of \$85,000 in grant funds to provide administrative funding for the Groundwork San Diego organization and to execute a contract with Groundwork San Diego to transfer \$250,000 in unspent grant funds from the California Department of Water Resources to complete improvements at the segment of Chollas Creek located at 38th and Alpha Streets.

Also, on February 8, 2008, the City Council adopted Resolution R-303361 which authorized the use of \$144,000 in Workforce Housing funds from the California Department of Housing and Community Development to be used at Segments 5 and 7 as identified in the Chollas Creek Enhancement Program, adopted by City Council in May 2002. Segment 5 is at the Jackie Robinson YMCA site. \$72,000 of the \$144,000 was used by Groundwork San Diego to complete a conceptual plan which provides the basis for the current Prop 84 application by Groundwork San Diego.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Subitem A - Groundwork San Diego is coordinating with the Encanto Neighborhoods Planning Committee, the Southeastern Economic Development Corporation (SEDC) and the Urban Corps of San Diego on the project.

Subitem B - The Jacobs Foundation has organized Community Building Teams and consulted with the Coalition of Neighborhood Councils (CNC) which represents 21 distinct communities in southeastern San Diego.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Subitem A - Key Stakeholders: Jackie Robinson YMCA, SEDC and the Urban Corps of San Diego. Projected impacts include reduced water flow thus reducing the potential for flooding, enhanced water quality, a restored riparian environment with native habitat and increased usable open space for the community.

Subitem B - Key Stakeholders: Encanto area residents, the Jacobs Foundation and the Coalition of Neighborhood Councils. Projected impacts include improved safety and flood management of the creek, elimination of hazards, restoration of the native habitat, improved water quality and the provision of a pedestrian walkway.

Anderson/Pomeroy

Staff: Myles Pomeroy - (619) 235-5219
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:03 p.m. – 3:35 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-250: **Notice** of Pending Final Map Approval – 3736 Arnold Avenue.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “3736 Arnold Avenue” (T.M. No. 116852/PTSNo. 70815), located on Arnold Avenue, between Wightman Street and Landis Street, in the Mid-City Community Planned District within the Greater North Park Community Planned Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

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

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Hueso at 4:01 p.m to adjourn into Closed Session.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 4:01 p.m. – 4:01 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego