

THE CITY OF SAN DIEGO, CALIFORNIA
 MINUTES FOR REGULAR COUNCIL MEETING
 OF
 TUESDAY, APRIL 14, 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 Hueso at 11:43 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Hueso at 2:08 p.m. with Council Member Young not present. Council President recessed the regular meeting at 2:13 p.m. to convene the Redevelopment Agency. Council President Hueso reconvened the regular meeting at 2:20 p.m. with Council Member Young not present. Council President Hueso recessed the regular meeting at 2:21 p.m. to reconvene the Redevelopment Agency. Council President Hueso reconvened the regular meeting at 2:21 p.m. with Council Member Young not present. Council President Hueso recessed the regular meeting at 2:24 p.m. to reconvene the Redevelopment Agency; and thereafter to reconvene the regular meeting with Council Member Young not present. Council President Hueso recessed the regular meeting at 2:26 p.m. to reconvene the Redevelopment Agency and thereafter the Housing Authority. Council President Hueso reconvened the regular meeting at 2:27 p.m. with Council Member Young not present. Council President Hueso recessed the regular meeting at 6:05 p.m. into Closed Session in the 12th Floor Committee Room to discuss labor negotiations. Council President Hueso reconvened the regular meeting at 10:23 p.m. with all Council Members present. The meeting was adjourned by Council President Hueso at 10:29 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
- Deputy City Clerk-Biagi (gs/sr)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Deputy City Clerk Biagi 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 at Council meetings.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:21 a.m. – 10:22 a.m.)

PUBLIC COMMENT-2:

Crickett Bradburn commented on the death of a homeless addict.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:23 a.m. – 10:26 a.m.)

PUBLIC COMMENT-3:

Brian Murphy commented on an incident with Metropolitan Transit System security.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:27 a.m. – 10:29 a.m.)

PUBLIC COMMENT-4:

Gary Samuel Wright commented on mental health.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:30 a.m. – 10:31 a.m.)

PUBLIC COMMENT-5:

Hud Collins commented on the City's finances.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:32 a.m. – 10:35 a.m.)

PUBLIC COMMENT-6:

Chris Eader commented on water conservation.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-7:

Antonio Colon commented on abusive behavior by the District Attorney.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-8:

Paul O’Sullivan commented on the Old Town Family Hospitality Corporation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. – 10:44 a.m.)

PUBLIC COMMENT-9:

Thomas D. Glasser commented on sidewalk repairs.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:45 a.m. – 10:47 a.m.)

PUBLIC COMMENT-10:

Verne Gammon commented on personal treatment.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:48 a.m. – 10:49 a.m.)

PUBLIC COMMENT-11:

Jarvis Ross commented on a previous Council meeting.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:50 a.m. – 10:52 a.m.)

PUBLIC COMMENT-12:

Izean Rim Jr. commented on nurses at public schools.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:53 a.m. – 10:54 a.m.)

PUBLIC COMMENT-13:

Elinor Rector commented on an upcoming Blackwater meeting.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:55 a.m. – 10:56 a.m.)

PUBLIC COMMENT-14:

Drew Benne commented on the homeless.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. – 11:01 a.m.)

PUBLIC COMMENT-15:

Rudy Reyes commented on medical cannabis.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-16:

David Ross commented on displaced veterans.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:05 a.m. – 11:08 a.m.)

COUNCIL COMMENT:

None.

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

02/02/2009
02/03/2009
02/09/2009 - Adjourned
02/10/2009 - Adjourned
02/16/2009 - Adjourned
02/17/2009
02/23/2009
02/24/2009

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:02 a.m. – 10:02 a.m.)

MOTION BY YOUNG TO APPROVE. 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-31: San Diego EarthWorks Day.

COUNCILMEMBER GLORIA'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-1002) ADOPTED AS RESOLUTION R-304784

Commending San Diego EarthWorks for its dedication to the preservation of and restoration of the Earth;

Proclaiming April 14, 2009, to be “San Diego EarthWorks Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:03 a.m. – 10:09 a.m.)

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

ITEM-32: American Federation of Musicians Life Members Day.

COUNCILMEMBER FRYE’S RECOMMENDATION:

Adopt the following resolution:

(R-2009-980) ADOPTED AS RESOLUTION R-304785

Recognizing the dedication of our veteran musicians and their long and valued contributions to the cultural enrichment of our City, and proclaiming April 14, 2009, to be “American Federation of Musicians Life Members Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:10 a.m. – 10:16 a.m.)

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

* ITEM-50: Providing for Defense and Indemnification of Community Planning Groups.

(See Independent Budget Analyst Report No. 09-21.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced as amended on 3/23/2009,
Item 200. (Council voted 8-0):

(O-2009-96 Rev. Copy) ADOPTED AS ORDINANCE O-19842 (New Series)

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.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:20 a.m.)

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

* ITEM-51: 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.)

(See letter from the Law Office of Cynthia L. Eldred dated 3/20/2009.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 3/23/2009, Item 201. (Council voted 8-0):

(O-2009-100) ADOPTED AS ORDINANCE O-19843 (New Series)

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.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:20 a.m.)

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

- * ITEM-52: 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.)

(See letter from the Law Office of Cynthia L. Eldred dated 3/20/2009.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 3/23/2009, Item 202. (Council voted 8-0):

(O-2009-98) ADOPTED AS ORDINANCE O-19844 (New Series)

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 turfed 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.

FILE LOCATION: LEAS-San Diego Unified School District (Montgomery Middle School)

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:20 a.m.)

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

ITEM-53: Amendments to the Permanent Rules of the Council.

(See memorandum from Councilmembers Frye, DeMaio, Lightner, and Emerald dated 2/3/2009; memorandum from Councilmember DeMaio dated 1/28/2009; memoranda from Council President Hueso dated 1/27/2009 and 1/14/2009; memorandum from Councilmembers Frye and DeMaio dated 11/13/2008, with accompanying documents; Council District Eight's PowerPoint; and Independent Budget Analyst Report Mo. 09-11.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced as amended on 3/2/2009, Item 200, with referrals to the Rules Committee and direction to the City Attorney to return to Council with additional amendments and again introduced as amended on 3/24/2009, Item 50.

On 3/2/2009, Council voted as follows:

- Portion relating to Rule 2.2, Order of Business: Unanimous: all present.
- Portion relating to Rule 4.2 Electing the Council President: Unanimous: all present.
- Portion related to directing the City Attorney to return to Council with an amendment to Rule 1.3 regarding Evening Meetings: Districts-1, 2, 3, 4, 5, 6, and 7 voted yea. District 8 voted nay.

On 3/24/2009, Council voted Unanimously (all present) to introduce the ordinance as amended on 3/2/2009 with an additional amendment to Rule 2.2, Order of Business to allow consent items on Mondays.

(O-2009-104 Rev. 2) ADOPTED AS ORDINANCE O-19845 (New Series)

Amending the San Diego Municipal Code by amending Chapter 2, Article 2, Division 1, Section 22.0101.5, entitled "Permanent Rules of the Council," by amending Rule 2.2 and Rule 4.2, to read as follows:

Rule 2.2 Order of Business (Former Rule 3) The order of business for Council meetings shall be as follows:

Monday at 2:00 p.m.

1. Roll Call
2. Invocation and Pledge of Allegiance
3. Requests for Continuances
4. Communications
5. Adoption Agenda
 - a) Consent Items
 - b) Committee Items
 - c) Other Legislative Items
 - d) Noticed Hearings (to be scheduled at various times throughout the day by the City Clerk based on the number of hearings and reasonable expectation of length) and Special Hearings
6. Public Comment on Closed Session Items
7. Public Notices
8. Non-Agenda Items
9. Adjournment

Tuesday at 9:00 a.m.

1. Closed Session

Tuesday at 10:00 a.m.

1. Roll Call
2. Pledge of Allegiance
3. Special Orders of Business
4. Non-Agenda Public Comment (limited to three minutes)
5. Requests for Continuance
6. Adoption Agenda
 - a) Consent Items
 - b) Noticed Hearings (to be scheduled at various times throughout the day by the City Clerk based on the number of hearings and reasonable expectation of length) and Special Hearings
 - c) Unfinished Business from Monday
7. Non-Agenda Items
8. Adjournment

Rule 4.2 Selection of the President

At the first regular Council meeting held after 10:00 a.m. the first Monday after the first day of December, the Council shall select a President from one of its members by majority vote of the Council. The President shall serve for a term of one year, commencing on the date set forth above, or until a successor is selected and qualified, whichever is later. The President may serve more than one term.

FILE LOCATION: MEET

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

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

ITEM-100: Settlement of *Grace Church of North County v. City of San Diego et al.*, United States District, Court Case No. 07-cv-419H (RBB).

CITY ATTORNEY’S RECOMMENDATION:

Adopt the following resolution:

(R-2009-995) ADOPTED AS RESOLUTION R-304786

Authorizing the Mayor to pay the sum of \$950,000 in settlement of each and every claim against the City of San Diego, the Rancho Bernardo Community Planning Board, and the Planning Commission of the City of San Diego, their agents and employees arising from or related to the *Grace Church of North County v. City of San Diego, et al.*, United States District Court, Case No. 07cv0419H;

Authorizing the expenditure of an amount not to exceed \$950,000 from the Public Liability Fund, Fund No. 81140, and the City Auditor and Comptroller are to issue one check in the sum of \$950,000 made payable to Grace Church of North County.

SUPPORTING INFORMATION:

This matter involves a land use decision to limit a church’s use in an industrial park located in Rancho Bernardo. On March 7, 2007, Plaintiff Grace Church of North County filed a Complaint asserting fifteen causes of action against the City of San Diego, the Rancho Bernardo Community Planning Board and the Planning Commission of the City of San Diego alleging City violated its constitutional rights to its free exercise of religion when the City approved a five-year Conditional Use Permit (“CUP”) to locate in an industrial zone instead of the ten years requested by Grace Church. The Federal District Court issued a ruling finding a violation of the Religious Land Use and Institutionalized Persons Act. In settlement of all pending claims, a settlement has been reached which entails issuing a 10-year permit and payment of \$950,000 to Grace Church of North County.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Public Liability Fund 81140.

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

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The item was considered in Closed Session on February 23, 2009. The Council approved the settlement amount of \$950,000. The motion passed 6-0 with Councilmembers DeMaio and Faulconer absent.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Jones

Aud. Cert. 2900692.

Staff: Christine M. Leone - Deputy City Attorney - (619) 533-6392

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:16 a.m. – 11:21 a.m.)

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

* ITEM-101: Settlement of Personal Injury Claim of Christine Leiendecker.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-988) ADOPTED AS RESOLUTION R-304787

Authorizing the City Comptroller to issue a check in the amount of, but not exceeding, \$275,000 made payable to Christine Leiendecker and her attorney of record, Michael R. McCabe, in full and final settlement of all claims;

Authorizing the City Council to pay the sum of \$275,000 from the Public Liability Fund 41500.

SUPPORTING INFORMATION:

The proposed settlement would resolve all claims brought by Christine Leiendecker.

FISCAL CONSIDERATIONS:

Settlement in the sum of \$275,000 will be paid from Water Department Fund 41500.

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

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The item was considered in Closed Session on February 3, 2009. The Council approved the settlement amount of \$275,000. The motion passed 8-0. The motion was made by Council President Pro Tem Faulconer and seconded by Councilmember Young.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Jones

Aud. Cert. 2900697.

Staff: Kathryn Snyder - Deputy City Attorney - (619) 533-5812

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:20 a.m.)

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

* ITEM-102: Reappointments to the Historical Resources Board.

(See memorandum from Mayor Sanders dated 3/10/2009.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-990) ADOPTED AS RESOLUTION R-304788

Council confirmation of the following reappointments by the Mayor of the City of San Diego, to serve as members of the Historical Resources Board, for terms ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Priscilla Ann Berge (Kensington, District 3) (Reappointment)	History	March 1, 2011
Gail Garbini (Talmadge, District 3) (Reappointment)	Landscape Architecture	March 1, 2011
Linda Marrone (La Jolla, District 1) (Reappointment)	At-Large/Real Estate	March 1, 2011
Jerry Schaefer, Ph.D. (Normal Heights, District 3) (Reappointment)	Archaeology	March 1, 2011
Abel Silvas (Pacific Beach, District 2) (Reappointment)	At-Large Member	March 1, 2011

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:20 a.m.)

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

ITEM-103: Appointment of the City Auditor.

(See City's Attorney's March 4, 2009, memorandum; Mayor's March 9, 2009, memorandum; Chief Operating Officer's March 3, 2009, memorandum; Proposed Charter Amendment; Amendment A; AICPA Audit Committee Toolkit: Government Organizations; Attachment B; Independent Budget Analyst Report No. 05-15.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-1001) ADOPTED AS RESOLUTION R-304795

Confirming the Mayor's appointment of Eduardo Luna to serve as the City Auditor for the City of San Diego for a term of 10 years in accordance with City Charter Section 39.2.

AUDIT COMMITTEE'S RECOMMENDATION:

On 3/26/2009, Audit voted 5 to 0 to concur with the Mayor's appointment of Mr. Eduardo Luna as City Auditor and forward the item to the City Council. (Councilmembers Faulconer and DeMaio voted yea. Committee Members Grant, Sellers, and McKnight voted yea.)

SUPPORTING INFORMATION:

Proposition C approved by the voters in June 2008 amended the City Charter to put into place a number of financial reforms including the appointment of an Independent City Auditor. The new Charter provisions called for the City Auditor to be appointed by the City Manager (Mayor) in consultation with the Audit Committee and confirmed by the City Council. On March 9, 2009, the Mayor sent a memo to the Audit Committee, appointing Eduardo Luna to City Auditor. On March 23, 2009, the Audit Committee invited Mr. Luna to present his background, qualifications, accomplishments and vision to the Audit Committee. At that meeting, the Audit Committee unanimously concurred with the Mayor's appointment and forwarded the item to the City Council. Upon Council confirmation, the City Auditor will serve for a 10-year period; report directly to the Audit Committee; and can be removed for cause only upon recommendation of the Audit Committee and by 2/3 vote of the City Council.

FISCAL CONSIDERATIONS:

These actions will have no fiscal impact.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The Audit Committee, having been consulted by the Mayor, voted unanimously to concur with the appointment of Mr. Eduardo Luna as City Auditor and to forward the item to the City Council on March 23, 2009.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Faucett

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

Staff: Steve McNally – (619) 235-5281
Timothy J. Fitzpatrick – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:30 a.m. - 11:39 a.m.;
2:30 p.m. - 3:02 p.m.)

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

* ITEM-104: Declaring a Continued State of Emergency Regarding the Wildfires.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-738) ADOPTED AS RESOLUTION R-304789

Declaring a continued state of emergency to exist in the City of San Diego due to the wildfires which began on October 21, 2007, pursuant to California Government Code Section 8630;

Declaring that the measures previously taken by the City Council in Resolution No. R-303098 shall continue to have full force and effect.

FILE LOCATION: GEN'L – State of Emergency Regarding the Wildfires

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:20 a.m.)

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

- * ITEM-105: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-871) ADOPTED AS RESOLUTION R-304790

Declaring a continued state of emergency to persist relative to the landslide on Mount Soledad, pursuant to California Government Code Section 8630;

Declaring that the measures previously authorized by the City Council in Resolution No. R-303041 shall continue to have full force and effect.

FILE LOCATION: GEN'L – State of Emergency Regarding the Landslide on Mount Soledad

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:20 a.m.)

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

- * ITEM-106: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (District 8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-810) ADOPTED AS RESOLUTION R-304791

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L – State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:20 a.m.)

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

* ITEM-107: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-898) ADOPTED AS RESOLUTION R-304792

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L – State of Emergency Due to Severe Shortage of Affordable Housing in the City

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:20 a.m.)

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

ITEM-330: Sale of City Owned Property to the San Diego Redevelopment Agency.
(City Heights Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-680) ADOPTED AS AMENDED AS RESOLUTION R-304796

Declaring that certain real property (Property) located at the intersection of El Cajon Boulevard and 40th Street (i.e., Assessor Parcel Numbers 447-202-31 and 447-202-32), owned in fee by the City, may be sold to the City of San Diego Redevelopment Agency;

Declaring that the Property may only be sold for the negotiated price of \$1,383,550;

Authorizing the Mayor, or his designee, to execute and deliver, on behalf of the City, a purchase and sale agreement, grant deed, and all other agreements and documents necessary and on terms and conditions deemed by the Mayor, or his designee, to be reasonable and in the best interests of the City to consummate the sale;

Authorizing and directing the Comptroller to accept the proceeds of the sale of the Property and deposit them into Route 209 and 274 Cooperative Agreement with the State Fund 38978, which supports CIP-52-274.0 (Balboa Avenue) and CIP-52-209.0 (Rosecrans Avenue).

STAFF SUPPORTING INFORMATION:

In May 2001, the City Council approved a Cooperative Agreement with the State of California (CalTrans) for the transfer of then State Route 209 (Rosecrans Avenue) and State Route 274 (Balboa Avenue) to the City of San Diego. As part of this transfer, the City also accepted seven parcels of excess State land from the State Route 15/40th Street Corridor Project.

The purpose of this acceptance was that upon the eventual sale of the parcels, the proceeds of sale would be deposited into an infrastructure fund specifically for the maintenance of those portions of then State Route 209 and State Route 274.

This action is to authorize the sale of two of the aforementioned properties to the City's Redevelopment Agency. The Agency intends to use the properties in conjunction with several projects in the City Heights community. The City and the Redevelopment Agency had independent appraisals performed for the subject properties. The appraisals had values which differed. Both parties used their respective appraisals as a basis for negotiating a price that reflected site characteristics and the market. The final negotiated price is satisfactory to both parties. Since these properties are needed for a public purpose, San Diego Municipal Code Section 22.0907 does not require a current appraisal therefore, a new appraisal was not necessary.

FISCAL CONSIDERATIONS:

The purchase price of \$1,383,550 will be deposited into State Route 209 and 274 Cooperative Agreement with the State Fund 38978, which supports CIP-52-274.0 (Balboa Avenue) and CIP-52-209.0 (Rosecrans Avenue).

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

City Council Resolution R-294888 adopted May 22, 2001, approved the Cooperative Agreement with the State of California and accepted funding for future maintenance.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The City's Transportation Department will benefit in receiving needed funding for the maintenance of Rosecrans and Balboa Avenues, and the City Heights Community will receive additional real estate necessary for future redevelopment projects.

Barwick/Jarrell

Staff: David Sandoval - (619) 236-5548
Brock Ladewig - Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda of April 14, 2009, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:20 p.m. – 2:21 p.m.)

MOTION BY GLORIA TO ADOPT THE RESOLUTION WITH AUTHORIZATION AND DIRECTION TO DEPOSIT THE PROCEEDS OF THE SALE OF THE PROPERTY IN ACCORDANCE WITH THE ORIGINAL SPLIT RATIO AS WHEN APPROVED. Second by Emerald. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-not present, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

ITEM-331: Installation of Streetlights Along El Cajon Boulevard and Streamview Drive - Crossroads Redevelopment Project Area. (College, Mid-City, and Eastern Community Areas. Districts 4 and 7.)

(See Redevelopment Agency Report No. RA-09-10/RTC-09-042.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-942) ADOPTED AS RESOLUTION R-304797

Finding and determining:

- a) That the installation of the Improvements, consisting of approximately 48 new, standard streetlights along El Cajon Boulevard from 54th Street to 73rd Street, and along Streamview Drive from 54th Street to College Avenue, located within the Project Area, for which the Agency proposes to pay using Agency tax increment funds from the Project Area, are of benefit to the Project Area and the immediate neighborhood in which the Project Area is located, as further described in Section I of the Special Findings attached to the staff report to the Council identified as Report No. RTC-09-042;

- b) That no other reasonable means of financing the Improvements is available to the community (i.e., the City), as further described in Section II of the Special Findings attached to the staff report to the Council identified as Report No. RTC-09-042;
- c) That the payment of Agency funds for the cost of installation of the Improvements will assist in the elimination of blighting conditions within the Project Area, as further described in Section III of the Special Findings attached to the staff report to the Council identified as Report No. RTC-09-042;
- d) That the Improvements are consistent with the Second Five-Year Implementation Plan adopted effective May 19, 2008, for the Crossroads Redevelopment Project pursuant to California Health and Safety Code Section 33490, a copy of which Plan is on file with the Agency as Document No. D-04266, as further described in Section IV of the Special Findings attached to the staff report to the Council identified as Report No. RTC-09-042;
- e) All of the findings set forth herein above are more fully described in the Special Findings attached to the staff report to the Council identified as Report No. RTC-09-042 and incorporated herein by this reference.

Authorizing the Mayor, or designee, to take all necessary actions to secure funding in an amount not to exceed \$580,000 from the Agency to be used toward the cost of installation of the Improvements;

Amending the Fiscal Year 2009 Capital Improvement Program Budget for CIP-52-293.0, Installation of City-Owned Streetlights Project, by increasing the budget amount by \$580,000;

Authorizing the City Comptroller to accept an amount not to exceed \$580,000 from the Project Area tax increment for the purpose of implementing the Installation of City-Owned Streetlights Project and to deposit said funds into Fund No. 30244, Capital Outlay Fund Unallocated Reserve, as an increase in the Fiscal Year 2009 Capital Improvement Program Budget in CIP-52-293.0, Installation of City-Owned Streetlights Project, to be used toward the cost of installation of the Improvements;

Authorizing the City Comptroller to appropriate and expend an amount not to exceed \$580,000 from CIP-52-293.0, Installation of City-Owned Streetlights Project, Fund No. 30244, Capital Outlay Fund Unallocated Reserve, for the purpose of installation of the Improvements;

Authorizing the City Comptroller to transfer back to the Agency any and all funds remaining in the Fiscal Year 2009 Capital Improvement Program Budget in CIP-52-293.0, Installation of City-Owned Streetlights Project, Fund No. 30244, Capital Outlay Fund Unallocated Reserve, upon any cost savings should actual costs of the Improvements be less than \$580,000;

Finding and determining that this activity is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303(d), in that the Improvements involve the installation of limited numbers of new, small facilities, including street improvements.

STAFF SUPPORTING INFORMATION:

The requested actions will allow for the installation of additional streetlights along El Cajon Boulevard from 54th Street to 73rd Street and along Streamview Drive from 54th Street to College Avenue within the Crossroads Redevelopment Project Area. Approximately 48 new streetlights may be installed along El Cajon Boulevard and Streamview Drive with an estimated total project cost of \$580,000. The cost per light varies because of location characteristics (i.e., trenching, conduit run, pullbox and circuit capacity). The new streetlights will create a safe, walkable environment for College and Eastern Area residents, visitors, and merchants, and help generate economic vitality for this vital commercial/transit corridor and remove blight.

El Cajon Boulevard east of 54th Street to 73rd Street, and along Streamview Drive from 54th Street to College Avenue, has a deficient inventory of streetlights which has contributed to the existence of blight, crime and unsafe lighting conditions within this vital commercial/transit corridor. Agency staff has worked with the community, property owners, merchants, San Diego Police Department, and Engineering and Capital Projects Department to identify locations along El Cajon Boulevard and Streamview Drive that need additional streetlights. The existing street lighting within this portion of El Cajon Boulevard, and Streamview Drive does not meet the current City standard for commercial/transit/residential corridor lighting requirements. This project will design and install approximately 48 additional streetlights along El Cajon Boulevard and Streamview Drive and the design work for the potential future installation of pedestrian lights (i.e., acorn type) along both sides of El Cajon Boulevard. Funding for installing pedestrian lights would be provided by others (i.e., Maintenance Assessment District).

This project is consistent with the Second Five-Year Implementation Plan for the Crossroads Redevelopment Project, which is recorded with the Agency as Document No. D-04266 and dated May 13, 2008. The improvements will eliminate and prevent the spread of blight and deterioration, and redevelop the proposed Redevelopment Project Area in accordance with the Redevelopment Plan, General Plan, applicable community plans, and local codes and ordinances.

Pursuant to California Community Redevelopment Law (CCRL) Section 33445, the Agency is legally authorized to pay for the installation of public improvements if special findings can be made by the Agency. Special Findings provide the necessary findings to satisfy the requirements under CCRL Section 33445.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

The total estimated project cost is \$580,000, which will be funded by Agency funds. Funding for this project will provide approximately 11 full-time equivalent jobs (i.e., engineering, construction and manufacturing) while providing standard lighting to commercial and residential corridors.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This project implements the goals and recommendations of the Mid-City Community Plan, the Crossroads Redevelopment Plan and is in conformance with the Progress Guide and General Plan.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On September 25, 2008, the Crossroads Project Area Committee (PAC) discussed this project and voted 11-0-1 to recommend the Agency fund this public improvement with Crossroad Redevelopment Project tax increment funds.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (IF APPICABLE):

College Area Economic Development Corporation, College Heights Enhanced Maintenance District, property owners and merchants along El Cajon Boulevard east of 54th Street to 73rd Street.

Weinrick/Anderson

Staff: Tracy Reed - (619) 236-6543
Kevin J. Reisch - Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda of April 14, 2009, for a companion item.

FILE LOCATION: MEET

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

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

ITEM-332: Housing Enhancement Loan Program in the College Grove Redevelopment Project Area and the Surrounding Neighborhoods Located in Census Tracts 27.05 and 27.06. (Eastern Community Area. Districts 4 and 7.)

(See Redevelopment Agency Report No. RA-09-02/RTC-09-019 and memorandum from Beryl Bailey Rayford dated 3/27/2009.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-981 Cor. Copy) ADOPTED AS RESOLUTION R-304798

Making the Findings of Benefit to the College Grove Redevelopment Project Area (Project Area) as more fully set forth in the document titled "Findings of Benefit," attached to Agenda Report No. RTC-09-019 as Attachment No. 2 and incorporated herein by this reference;

Declaring that the Project Area Set-Aside Funds in the amount of \$125,000 identified above shall be utilized for the "College Grove Redevelopment Housing Enhancement Loan Program" within the Project Area or outside the Project Area in the surrounding neighborhoods located in census tracts 27.05 and 27.06 (College Grove Housing Enhancement Loan Program [HELP] Area).

STAFF SUPPORTING INFORMATION:

The proposed College Grove Redevelopment Housing Enhancement Loan Program (HELP) provides one-time only forgivable housing enhancement loans of up to \$20,000 at an annual simple interest rate of 3% to owner-occupants of one- and two- unit properties who live in the College Grove Redevelopment Project Area or outside the Project Area in the surrounding neighborhoods located in census tracts 27.05 and 27.06 and whose gross household income is no greater than 100% of the Median Area Income.

Eligible participants and properties located outside of the College Grove Redevelopment Project Area within the surrounding neighborhoods located in census tracts 27.05 and 27.06 will immediately benefit from the College Grove HELP since there currently does not exist any eligible participants and properties located within the College Grove Redevelopment Project Area. However, there may be eligible participants and properties to benefit from the College Grove HELP Program in the future.

The loans will be used to address interior and exterior conditions of properties to repair health and safety hazards and to rehabilitate, repair and install improvements, including improvements not eligible in existing rehabilitation programs such as fencing, sidewalks, and landscaping. The loans may be increased up to an additional \$5,000 for qualifying energy and water conserving improvements. The loans may be forgiven if the owners maintain residence at their properties for not less than 10 years.

The Agency proposes to enter into an Agreement with the San Diego Housing Commission to administer and provide outreach services for the program within the applicable area of the HELP, which includes the Oak Park community that comprises the two census tracts. The Housing Commission successfully manages similar programs for the City Heights, Crossroads, North Park, and Linda Vista Redevelopment Project Areas. The proposed loan terms are identical to the Crossroads HELP available in census tracts to the north of the Oak Park community.

FISCAL CONSIDERATIONS:

The College Grove Redevelopment Project Area currently has adequate low- and moderate-income housing tax increment set aside funds to allow for the implementation of the College Grove HELP. An additional \$75,000 in College Grove low- and moderate-income housing tax increment set aside funds will be considered as part of an FY2010 budget proposal.

ENVIRONMENTAL REVIEW:

This activity is not a "project" and therefore exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On December 9, 2008, the Eastern Area Communities Planning Group voted 10-0-0 to recommend an initial investment of \$200,000 of low- and moderate-income housing tax increment set aside funds for the implementation of the College Grove HELP in census tracts 27.05 and 27.06 with loan terms identical to the Crossroads HELP.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Owner-occupants of one- and two- unit properties within the Project Area or outside the Project Area in the surrounding neighborhoods located in census tracts 27.05 and 27.06 whose gross household income is not greater than 100% of the Area Median Income.

Weinrick/Anderson

Staff: Michael Lengyel - (619) 236-6269
Kendall D. Berkey - Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda and Special Housing Authority Agenda of April 14, 2009, for companion items.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. - 2:26 p.m.)

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

ITEM-333: Ratification of the 2009 San Ysidro Project Area Committee (PAC) Election and Adoption of the Amended and Restated Procedure for Formation and Election of the Project Area Committee for the San Ysidro Redevelopment Project Area. (San Ysidro Community Area. District 8.)

(Continued from the meeting of March 30, 2009, Item 330, at the request of Councilmember Frye, for further review.)

NOTE: Hearing open. Testimony taken on March 30, 2009.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2009-944) ADOPTED AS RESOLUTION R-304793

Finding the election results of March 4, 2009, with respect to the Project Area Committee (PAC) for the San Ysidro Redevelopment Project, are valid and binding in accordance with the Formation Procedure adopted by Resolution No. R-304593, and that all relevant provisions of the Formation Procedure were followed;

Declaring that the PAC, including those persons who received the highest number of votes in their respective categories and listed on the City Clerk's Office's verification of election results attached as Exhibit A, is hereby approved as constituting a representative PAC for the San Ysidro Redevelopment Project;

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).

Subitem-B: (R-2009-945) ADOPTED AS RESOLUTION R-304794

Adopting the Restated Formation Procedure set forth in attached Exhibit A;

Authorizing and directing the Redevelopment Agency of the City of San Diego (Agency), through its staff and consultants, to implement the Restated Formation Procedure in the manner required by law;

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).

STAFF SUPPORTING INFORMATION:

On January 13, 2009, the City Council approved Resolution No. 304593, "Procedure for Formation and Election of a Project Area Committee for the San Ysidro Redevelopment Project Area" ("PAC Procedures"). Subsequently, a PAC election was conducted on March 4, 2009. The proposed actions under this item will allow for the ratification of the 2009 San Ysidro Project Area Committee ("PAC") Election and adoption of the Amended and Restated Procedures for the San Ysidro Redevelopment Project Area ("Project Area").

Pursuant to State Law, a public notice was published in the January 14, 2009, issue of the Daily Transcript, two weeks prior to the PAC information meeting, and at least 30 days prior to the PAC election. On March 4, 2009, the San Ysidro PAC Election ("Election") took place at the San Ysidro Civic and Recreation Center located at 212 West Park, between the hours of 6 p.m. - 8 p.m. The results of the Election are herein included as Exhibit A.

The proposed Amended PAC Procedures clarify the filling of vacancies for all categories of the PAC after formation of the PAC. Section 603 of the original PAC Procedures (see Exhibit B) were amended to require that each seat remain vacant until a qualified candidate is selected by a majority vote of the then sitting members of the PAC. There are no other proposed changes to the PAC Procedures. The Amended and Restated PAC Procedures are herein included as Exhibit C.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On April 16, 1996, Council approved the San Ysidro Redevelopment Project Area. On January 13, 2009, Council approved Resolution No. R-304593, "Procedure for Formation and Election of a Project Area Committee for the San Ysidro Redevelopment Project Area."

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On September 16, 2008, the San Ysidro Community Planning Group unanimously recommended (10-0) to form a PAC.

Election Notices for the March 4, 2009, PAC Election were posted in several locations throughout the Project Area. The Election Notice was also mailed to all known residents and property owners within the Project area.

KEY STAKEHOLDERS AND PROJECTED IMPACTS

The San Ysidro Community.

Weinrick/Anderson

Staff: Sam Johnson - (619) 236-6265
Kevin J. Reisch - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:22 a.m. – 11:30 a.m.)

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

ITEM-334: Jacob Health Care Facility. An application for a Conditional Use Permit, Planned Development Permit, Tentative Parcel Map with Waiver of the Requirement to Underground Existing Overhead Utilities and an Easement Vacation to allow an existing health care facility consisting of 102 beds and approximately 48,610 square feet to be expanded to 288 beds and approximately 93,401 square feet. New surface and subterranean parking would be provided and the project would be built in phases. The proposal includes deviations from the development standards, as allowed through the Planned Development Permit process. The 3.9-acre project site is located at 4075 54th Street, on the east side of 54th Street, north of University Avenue in the RM-1-1 Zone of the Central Urbanized Planned District and the Transit Area Overlay Zone, within the Eastern Area neighborhood. (Mid-City Communities Plan Area. District 7.)

Matter of approving, conditionally approving, modifying or denying an application for a Conditional Use Permit, Planned Development Permit, Tentative Parcel Map with Waiver of the Requirement to Underground Existing Overhead Utilities and an Easement Vacation to allow an existing health care facility consisting of 102 beds and approximately 48,610 square feet to be expanded to 288 beds and approximately 93,401 square feet. New surface and subterranean parking would be provided and the project would be built in phases. The proposal includes deviations from the development standards, as allowed through the Planned Development Permit process. The 3.9-acre project site is located at 4075 54th Street, on the east side of 54th Street, north of University Avenue in the RM-1-1 Zone of the Central Urbanized Planned District and the Transit Area Overlay Zone, within the Eastern Area neighborhood of the Mid-City Communities Plan area.

(Mitigated Negative Declaration No. 146595/MMRP/Conditional Use Permit No. 514658/Planned Development Permit No. 514659/Easement Vacation No. 613849/Tentative Parcel Map No. 514660/Waiver of the requirement to underground the existing overhead utilities/Project No. 146595.)

STAFF'S RECOMMENDATIONS:

Adopt the following resolutions:

Subitem-A: (R-2009-964) ADOPTED AS RESOLUTION R-304799

Adoption of a Resolution approving Tentative Parcel Map No. 514660/Easement Abandonment No. 613849-Jacob Health Care Center, LLC.-Project No. 146595;

That the Council of the City of San Diego adopts the findings with respect to Tentative Parcel Map No. 514660/Easement Vacation No. 613849, including the waiver of the requirements to underground existing overhead utilities, which are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference;

That pursuant to California Government Code section 66434(g), an approximately 10-foot wide by 100-foot long portion of the sewer easement located in the southeast corner of the project site, within the project boundaries as shown in Tentative Parcel Map No. 514660, shall be vacated, contingent upon the recordation of the approved final map for the project;

That Tentative Parcel Map No. 514660/Easement Vacation No. 613849, is hereby granted to Jacob Health Care Center, LLC., Applicant/Subdivider, subject to the attached conditions which are made a part of this resolution by this reference.

Subitem-B: (R-2009-965) ADOPTED AS RESOLUTION R-304800

Adoption of a Resolution approving Conditional Use Permit No. 514658/Planned Development Permit No. 514659-Jacob Health Care Center LLC.-Project No. 146595;

That the Council of the City of San Diego adopts the findings with respect to Conditional Use Permit No. 514658/Planned Development Permit No. 514659, which are supported by the minutes, maps, and exhibits, all of which are incorporated herein by this reference;

That Conditional Use Permit No. 514658/Planned Development Permit No. 514659 is granted to Jacob Health Care Facility, LLC., Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

Subitem-C: (R-2009-969) ADOPTED AS RESOLUTION R-304801

Adoption of a Resolution certifying that the Mitigated Negative Declaration No. 146595, 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 Sections 15000 et seq.), that the decision reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this City Council in connection with the approval of a conditional use permit/planned development permit and easement vacation for the Jacob Health Care Center project;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the MND, a copy of which is on file in the Office of the City Clerk and incorporated by reference, is approved;

That pursuant to California Public Resources Code, Section 21081.6, the City Council hereby adopts the Mitigation Monitoring and Reporting Program, or alteration to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference;

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.

OTHER RECOMMENDATIONS:

Planning Commission on February 19, 2009, voted 7-0 to approve.

Ayes: Naslund, Golba, Griswold, Lydon, Ontai, Otsuji, Smiley

The Eastern Area Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of a Conditional Use Permit, Planned Development Permit, Easement Vacation and Tentative Parcel Map for the expansion of an existing 102-bed health care facility into a 288-bed bed facility on a 3.9-acre site located at 4075 54th Street, in the Eastern Area neighborhood of the Mid-City Communities Plan.

STAFF RECOMMENDATION:

Approve the requested actions.

EXECUTIVE SUMMARY:

The proposed project would allow the expansion of an existing health care facility in three separate phase, as described in the attached Report to the Planning Commission dated February 10, 2009. The completed project would increase the number of beds from 102 to 288 and project square footage from 48,610 square feet to approximately 93,761 square feet. The project has been conditioned to ensure that adequate parking is provided during each building phase and the completed project would provide 105 parking spaces where 96 are required by the Municipal Code.

The project site is located in the RM-1-1 Zone of the Central Urbanized Planned District, which is a multi-family zone that would allow up to 57 dwelling units on the site. The Mid-City Communities Plan designates the site for multi-family development at a rate of 11 to 15 dwelling units per acre. The community plan also calls for the location and expansion of health care facilities along 54th Street. Health care facilities such as the proposed project are allowed in the RM-1-1 Zone with the approval of a Conditional Use Permit (CUP). CUP No. 5054, which allowed for the operation of the existing facility, was approved in 1962 and amended in 1968.

On September 30, 1999, the Planning Commission approved CUP No. 98-1097, which allowed a phased expansion of the facility to 288 beds, which was very similar to the current proposal. That approval expired because the applicant did not utilize the permit within the required three-year time period. The applicant has therefore submitted the current CUP request to allow the expansion. When the previous CUP was approved in 1999, the site was within the MR-1000 Zone of the Mid-City Communities Planned District Ordinance. On October 2, 2000, the site was rezoned to the RM-1-1 Zone of the Central Urbanized Planned District and the current expansion request has been reviewed in accordance with those regulations. Although the Planning Commission was the previous decisionmaker, City Council approval is now required because an Easement Abandonment has been included in the project scope.

The proposed expansion would include additions to the existing one-story structure and the construction of a new two-story structure with subterranean parking on the undeveloped southern portion of the site. The new construction has been designed to compliment the existing development, incorporating a neutral-tone stucco finish with brick accents and architectural relief features to reduce the bulk and scale of the structures. The proposed expansion has been designed to be sensitive to the existing surrounding development, which includes multi-family residential development to the west and north, an existing health care facility to the east and a mix of commercial and multi-family residential development to the south.

As described in the attached Report to the Planning Commission dated February 10, 2009, the applicant is requesting the approval of a Planned Development Permit (PDP) to allow deviations from the side yard setback and street frontage requirements. Staff is supportive of the deviation requests because the side yard setback deviation would not adversely affect surrounding development and the street frontage deviation would allow the subdivision of the existing panhandle lot.

The proposed project also includes a Tentative Parcel Map, Easement Abandonment and request to waive the requirement to underground the existing overhead utilities. The Tentative Parcel Map would allow the site to be subdivided into two parcels and would require the approval of a street frontage deviation because the existing site is a panhandle lot that does not contain street frontage. The Easement Abandonment would allow the existing sewer easement at the southern portion of the site to be relocated out of the footprint of the proposed expansion and enlarged to current standards. The applicant's request to waive the requirement to underground the existing overhead utilities would allow an existing power pole near Colt's Way to remain as it serves adjacent properties. Staff believes that the waiver request complies with Council Policy No. 600-25.

Mitigated Negative Declaration (MND) No. 146595, finalized on January 28, 2009, was prepared for this project. The MND includes a Mitigation, Monitoring and Reporting Program (MMRP) which would reduce potential impacts to Historical Resources (Archeology), Paleontological Resources and Transportation/Circulation to below a level of significance.

FISCAL CONSIDERATIONS:

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

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On June 10, 2008, the Eastern Area Community Planning Group voted 9-1 to recommend approval of the project. On February 19, 2009, the Planning Commission voted 7-0 to recommend approval of the project to the City Council.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Jacob Health Care Center, Limited Partnership

Westlake/PG

LEGAL DESCRIPTION:

The project site is located at 4075 54th Street in the RM-1-1 Zone of Central Urbanized Planned District within the Eastern Area Neighborhood of Mid City Communities Plan Area.

NOTE: The City of San Diego as Lead Agency under CEQA has prepared and completed and MND, Project No. 146595, dated January 28, 2009, and a Mitigation, Monitoring and Reporting Program which covers this activity.

Staff: Paul Godwin – (619) 446-5103
Keith Bauerle – Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:27 p.m. – 2:29 p.m.)

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

ITEM-335: Brown Field Tech Park Vacation. Project No. 100619. A request for a Public Right-of-Way Vacation and Easement Abandonment to vacate a portion of Camino Maquiladora and Colchester Court and Easement Abandonments of various general utilities and slope easements resulting from the final alignment of Interstate 905 on a 72.7-acre site. The site is located south of Otay Mesa Road, west of Britannia Blvd, and north of Airway Road. (Otay Mesa Community Plan Area. District 8.)

Matter of approving, conditionally approving, modifying or denying a request for a Public Right-of-Way Vacation and Easement Abandonment to vacate a portion of Camino Maquiladora and Colchester Court and Easement Abandonments of various general utilities and slope easements resulting from the final alignment of Interstate 905 on a 72.7-acre site. The site is located south of Otay Mesa Road, west of Britannia Blvd, and north of Airway Road within the Otay Mesa Community Planning area, and zoned Industrial Subdistrict within the Otay Mesa Development District, Council District 8.

(Map Waiver No. 612684/Public R-O-W Vacation No. 618775/Easement Abandonment No. 618777/Easement Acquisition No. 618778.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-985) ADOPTED AS RESOLUTION R-304802

Adoption of a Resolution granting Map Waiver No. 612684, Public Right-of-Way Vacation No. 618775, Easement Abandonment No. 618777, and Easement Acquisition No. 618778 for the Brown Field Tech Park, Project No. 100619;

Certifying findings supported by the minutes, maps, executive summary, and exhibits, all of which are incorporated herein by reference, with respect to Map Waiver No. 612684, Public Right-of-Way Vacation No. 618775, Easement Abandonment No. 618777, and Easement Acquisition No. 618778;

Pursuant to California Government Code section 66445(j), vacating, contingent upon the recordation of the approved Parcel Map for the project, portions of Camino Maquiladora, Colchester Court and the Irrevocable Offer to Dedicate Public Street over a portion of lots 7 and 10; the slope easement over a portion of lots 7 and 10; the drainage easement over lots 2, 3, 7, 10, 18, and 19; the sewer easement over lot 13 and the floodwater storage easement over lots 1, 2, 3, 4, 5, 6, 7, 8, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21 all granted on Map No. 13498, located within the project boundaries as shown in Map Waiver No. 612684;

Granting Map Waiver No. 612684, Public Right-of-Way Vacation No. 618775, Easement Abandonment No. 618777, and Easement Acquisition No. 618778 to Brown Field Technology Park, LLC, Applicant/Subdivider and Matthew Barlow, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

OTHER RECOMMENDATIONS:

As described in Section 125.0910(b) and 125.0940(c) of the Municipal Code, a right-of-way vacation may be summarily vacated therefore, a recommendation by the Planning Commission is not required.

The Otay Mesa Community Planning Group on January 21, 2009, voted 10-0-1 to recommend approval of the project with no conditions.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Map Waiver to create 20 lots through the consolidation of various vacant parcels of land, a public right-of-way vacation and easement abandonments for a property located south of Otay Mesa Road, west of Britannia Boulevard, and north of Airway Road within the Otay Mesa Community Planning Area.

STAFF RECOMMENDATION:

Approve Map Waiver No. 612684, Public Right-of-Way Vacation No. 618775, Easement Abandonment No. 618777, and Easement Acquisition No. 618778.

EXECUTIVE SUMMARY:

The project is a Map Waiver to consolidate 21 parcels of land into 20 parcels, vacate a portion of Camino Maquiladora and Colchester Court Public Right-of-Way, and abandon various easements including sewer easements, drainage easements, flood storage easements, and slope easements. The project requires a Process 5 action for the proposed right-of-way vacations and easement abandonments.

The proposed Map Waiver is necessary due to the future construction of State Route (SR) 905's final alignment. In 1997, a Final Map was approved for a 21 lot subdivision for the subject property. The Final Map identified future SR-905 traversing the site. In 2005, Caltrans expanded the SR-905 right-of-way which necessitated additional dedications from the abutting property owners. That action created impacts to several lots, on-site easements and public rights-of-way within the project boundaries. The proposed Map Waiver would adjust and consolidate the lots and required easements.

The property is designated for industrial parks within the Otay Mesa Community Plan and zoned Otay Mesa Development District – Industrial Subdistrict. The site is currently vacant. Surrounding this site to the north is Brown Field Airport and industrial developments to the east. The vacation will include an approximate 400-foot long portion of unimproved Camino Maquiladora and approximately 400 feet of unimproved Colchester Court. Flood storage, sewer, drainage, and slope easements will be abandoned and replaced. A 30-foot access easement is proposed off of Otay Mesa Road.

Regulatory Framework

The Land Development Code establishes a process for approving applications to vacate public rights-of-way and easement abandonments and includes the applicable findings that a decision maker must make to approve the requested vacations. The findings generally establish that there is no present or prospective public use for the right-of-way or easements, either for the use for which it was intended, or any other 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 or abandonment.

The proposed vacations are a result of a subdivision redesign. The originally approved rights-of-way and easements are not being removed but rather reconfigured to account for the SR-905 final alignment. The City has determined the current public rights-of-way designs are no longer needed as they are not a part of the current or proposed circulation plan for the Otay Mesa Community Plan.

The proposed consolidation to create 20 parcels from 21 parcels, public right-of-way vacation and abandonment of easements will facilitate future development pursuant to the Otay Mesa Community Plan and the underlying zoning.

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND/OR PUBLIC OUTREACH EFFORTS:

As described in Section 125.0910(b) and 125.0940(c) of the Municipal Code, a right-of-way vacation may be summarily vacated therefore, a recommendation by the Planning Commission is not required.

The Otay Mesa Community Planning Group voted 10-0-1 on January 21, 2009, to recommend approval of the project with no conditions.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

R. Michael Murphy; Brown Field Technology Park, LLC.

Westlake

LEGAL DESCRIPTION:

Parcels between Otay Mesa Road and Airway Road and Continental Street and Britannia Boulevard, more particularly described as Lots 1-21, inclusive, of Otay Mesa Business Park, LTD in the City of San Diego, County of San Diego, State of California according to Map Thereof No. 13498 recorded in the Office of the County Recorder of San Diego County, November 10, 1997, as File No. 1997-056091, O.R. Together with those portions of Otay Mesa Road, Britannia Boulevard, Airway Road, Continental Street, Camino Maquiladora and Colchester Court, all as dedicated to public use in the OMDD-INDUST/SUBD Zone in the Otay Mesa Community Plan Area, City of San Diego, County of San Diego and State of California.

NOTE: This activity is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15305 (Minor Alterations in Land Use).

Staff: William Zounes – (619) 687-5942
Nina M. Fain – Deputy City Attorney

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

FILE LOCATION: STRT J-2997(39)

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:30 p.m.)

MOTION BY DEMAIIO 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-336: Impasse Hearings Regarding Labor Negotiations with Recognized Employee Organizations (Municipal Employees Association (“MEA”), AFSCME Local 127, Deputy City Attorneys Association (“DCAA”), International Association of Firefighters (“IAFF”) Local 145, and San Diego Police Officers Association (“SDPOA”).

MAYOR SANDERS’ RECOMMENDATION:

(R-2009-1061) HEARING HELD; ADOPTED AS RESOLUTION R-304803

Carry out Impasse Hearings, if necessary, for Labor Negotiations with Recognized Employee Organizations (Municipal Employees Association (“MEA”), AFSCME Local 127, Deputy City Attorneys Association (“DCAA”), International Association of Firefighters (“IAFF”) Local 145, and San Diego Police Officers Association (“SDPOA”).

(R-2009-1063) HEARING HELD; ADOPTED AS AMENDED AS RESOLUTION R-304804

Carry out Impasse Hearings, if necessary, for Labor Negotiations with Recognized Employee Organizations (Municipal Employees Association (“MEA”), AFSCME Local 127, Deputy City Attorneys Association (“DCAA”), International Association of Firefighters (“IAFF”) Local 145, and San Diego Police Officers Association (“SDPOA”).

HEARING HELD

Carry out Impasse Hearings, if necessary, for Labor Negotiations with Recognized Employee Organizations (Municipal Employees Association (“MEA”), AFSCME Local 127, Deputy City Attorneys Association (“DCAA”), International Association of Firefighters (“IAFF”) Local 145, and San Diego Police Officers Association (“SDPOA”).

SUPPORTING INFORMATION:

Pursuant to the Meyers-Milias-Brown Act, at California Government Code section 3500 et seq. and City Council Policy 300-06, if the meet and confer process between the City and any of its recognized employee organizations has reached impasse, the impasse shall be resolved by a determination of the City Council after a hearing on the merits of the dispute. This hearing is scheduled to resolve any wage issues or other terms and conditions of employment where agreement has not been reached.

Chadwick

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:02 p.m. - 6:05 p.m.;
10:23 p.m. - 10:26 p.m.)

MOTION BY DEMAIO TO UNILATERALLY IMPLEMENT AND ADOPT THE LAST, BEST, AND FINAL OFFER REGARDING AFSCME AS SET FORTH IN THE TERMS SHEET PROVIDED TO THE UNION BY THE MAYOR’S OFFICE. Second by Faulconer. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

MOTION BY FAULCONER TO IMPLEMENT AND ADOPT THE LAST, BEST, AND FINAL OFFER REGARDING THE SAN DIEGO POLICE OFFICER’S ASSOCIATION AS SET FORTH IN THE TERMS SHEET PROVIDED TO THE UNION BY THE MAYOR’S OFFICE AS AMENDED BY CHANGING THE FLEX BENEFITS TO \$7588. 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-337: Resolution Approving All Tentative Agreements with Recognized Employee Organizations (Municipal Employees Association (“MEA”), AFSCME Local 127, Deputy City Attorneys Association (“DCAA”), International Association of Firefighters (“IAFF”) Local 145, and San Diego Police Officers Association (“SDPOA”).

MAYOR SANDERS’ RECOMMENDATION:

CONTINUED TO TUESDAY, APRIL 21, 2009

Adopt a Resolution Approving All Tentative Agreements with Recognized Employee Organizations (Municipal Employees Association (“MEA”), AFSCME Local 127, Deputy City Attorneys Association (“DCAA”), International Association of Firefighters (“IAFF”) Local 145, and San Diego Police Officers Association (“SDPOA”).

SUPPORTING INFORMATION:

This Resolution is to approve any tentative agreements reached between the City and its recognized employee organizations that are mandated to be included as part of the City’s Salary Ordinance, pursuant to San Diego City Charter section 290.

Chadwick

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:26 p.m. – 10:28 p.m.)

MOTION BY DEMAIO TO CONTINUE THE ITEM TO TUESDAY, APRIL 21, 2009, IN ORDER TO FINALIZE THE DETAILS WITH LOCAL 145, MUNICIPAL EMPLOYEES ASSOCIATION, AND DEPUTY CITY ATTORNEYS ASSOCIATION ON CONTRACT TERMS. 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: Preparation of Salary Ordinance for Fiscal Year 2010.

STAFF'S RECOMMENDATION:

Introduce the following ordinance in Subitem A and adopt the resolutions in Subitems B, C, and D:

Subitem-A: (O-2009-115) CONTINUED TO TUESDAY, APRIL 21, 2009

Introduction of an Ordinance establishing a Schedule of Compensation for Officers and Employees of the City of San Diego for the Fiscal Year 2010.

Subitem-B: (R-2009-1007) CONTINUED TO TUESDAY, APRIL 21, 2009

Approving in accordance with the terms and conditions the classifications of personnel in the classified service of the City of San Diego eligible for premium or regular rate overtime as set forth in Attachment "A", effective from July 1, 2009 through June 30, 2010, pursuant to the authority of Section 9 of the Annual Salary Ordinance.

Subitem-C: (R-2009-1008) CONTINUED TO TUESDAY, APRIL 21, 2009

Amending the classifications previously designated by the Council as appropriately assigned to employee representation units, to reflect additions of new classes, removal of deleted classes, and changes to titles, such amendments to be as contained in the listing of job classifications and appropriate units, as set forth in Attachment "A".

Subitem-D: (R-2009-1009) CONTINUED TO TUESDAY, APRIL 21, 2009

Establishing and adopting a Cafeteria Benefits Plan (Plan) for all designated eligible employees for Fiscal Year 2010 (Attachment "B"), providing therein dollar sums certain for each eligible employee, to be allocated to benefits as are designated in the Plan, pursuant to Section 16 of the Annual Salary Ordinance No. O-_____, and upon the recommendation of the Mayor;

Authorizing the Mayor to execute agreements with the appropriate organizations providing the benefits designated in the Plan;

Declaring the funds appropriated for this Plan shall be as set forth in the annual appropriation ordinance.

Staff: Hadi Dehghani - (619) 236-6155
Stewart H. Swett – Senior Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:28 p.m. – 10:29 p.m.)

MOTION BY DEMAIO TO CONTINUE THE ITEM TO TUESDAY, APRIL 21, 2009, TO ALLOW FOR PREPARATION OF SUPPORTING DOCUMENTATION. Second by Lightner. 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:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Hueso at 10:29 p.m.

FILE LOCATION: MINUTES

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