

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

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**CHRONOLOGY OF THE MEETING:**

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

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

**ATTENDANCE DURING THE MEETING:**

- (1) Council Member Lightner-present
- (2) Council Member Faulconer-present
- (3) Council Member Gloria-present
- (4) Council Member Young-present
- (5) Council Member DeMaio-present
- (6) Council Member Frye-present
- (7) Council Member Emerald-present
- (8) Council Member Hueso-present

Clerk-Maland (dlc/mz)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Lightner-present
- (2) Council Member Faulconer-present
- (3) Council Member Gloria-present
- (4) Council Member Young-present
- (5) Council Member DeMaio-present
- (6) Council Member Frye-present
- (7) Council Member Emerald-present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on lawsuits allowing judges to make laws.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-2:

Joy Sunyata commented on the Housing Commission.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-3:

Hud Collins commented on City Finances.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-4:

Al Strohlein commented on conserving water.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-5:

Jarvis Ross commented on discrimination.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-6:

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

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-7:

Robert McNamara commented on Council car allowance and compensation.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-8:

Thomas Danny Glasser commented on various concerns.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-9:

Abdur-Rahim Haneed commented on Black History Month.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-10:

Phil Hart commented on Council responsibility.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-11:

Izean Rim Jr. commented on public safety.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-12:

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

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-13:

Dion Markgraff commented on medical marijuana regulations.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-14:

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

FILE LOCATION: AGENDA

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



PUBLIC COMMENT-15:

Cynthia Conger commented on the WiFi policy.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-16:

Homer Barrs commented on mobile home relocation.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-17:

David Ross commented on the displaced in San Diego.

FILE LOCATION: AGENDA

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

COUNCIL COMMENT:

COUNCIL COMMENT-1:

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

FILE LOCATION: MINUTES

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

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.



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

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

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

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

FILE LOCATION:            AGENDA

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

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



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

**COUNCILMEMBER FAULCONER'S RECOMMENDATION:**

Adopt the following resolution:

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

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

FILE LOCATION:            AGENDA

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

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

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

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

**CITY COUNCIL'S RECOMMENDATION:**

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

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

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

Declaring that this activity is not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines, Section 15378(c). This activity is subsequent discretionary approval covered under the Otay II Pipeline Improvements Project LDR No. 42-0955, Environmental Impact Report (EIR). This activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review pursuant to CEQA Guidelines Section 15177.

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

FILE LOCATION:                      MEET

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

CONSENT MOTION BY EMERALD TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

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

**CITY COUNCIL'S RECOMMENDATION:**

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

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

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

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

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

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

FILE LOCATION: MEET

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

CONSENT MOTION BY EMERALD TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

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

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

**TODAY’S ACTION IS:**

Adopt the following resolution:

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

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

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

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

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

Declaring that this activity is covered by Mitigated Negative Declaration, LDR No. 31233, dated August 30, 2004. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review.

Because the prior environmental documents adequately covered this activity as part of the previously approved project, the activity is not a separate project for purposes of California Environmental Quality Act (CEQA) review pursuant to State CEQA Guidelines Sections 15060(c)(3) and 15378(c). (BID-K092601C)

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

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

**SUPPORTING INFORMATION:**

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

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

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

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego

Goals: 44% Mandatory Subcontractor Participation Goal, 14% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 2% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 28% Advisory Participation Goal Other Business Enterprise (OBE).

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

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$6,952,489.91. Funding of \$2,343,874 was previously authorized by Council Resolutions (R-297744 - \$1,428,335 and R-299233 - \$915,539) for consultant services for four separate groups of Pump Station Upgrades, totaling 22 Sewer Pump Stations. Of this amount, \$1,088,249.11 was authorized for PS Group I - North County SPS Upgrades. Additional funding of \$5,638,740.80 will be available from Enterprise Fund in CIP-41-929.0, Pump Station Upgrades, Fund 41506, Sewer, and \$225,500 will be available from Enterprise Fund in CIP-46-193.0, Annual Allocation - Muni Pool Contingency, Fund 41506, Sewer, for this purpose.

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

PREVIOUS COUNCIL AND/OR COMMITTEE ACTIONS:

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



The subject item was presented to the Committee on Natural Resources and Culture on December 3, 2008, and was approved 3-0 on consent; consent motion by Councilmember Faulconer, second by Council President Peters.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

This project has minimal or no impact to the communities. All the work is confined inside of the pump stations footprints and includes only mechanical upgrades and cosmetic improvements. Bypass pumping is required in order to eliminate shutdowns.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

The key stakeholders are MWWD customers, MWWD which will be able to better monitor and prevent sewer spills, minimize stations downtime and respond more quickly to emergencies. No new fees or regulations are proposed.

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

Boekamp/Jarrell

**FILE LOCATION:** CONT-TC CONSTRUCTION CO, INC.

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

CONSENT MOTION BY EMERALD 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-101: New Lease Agreement with the San Diego Metropolitan Transit System Located at 200 Catalina Boulevard, San Diego at the Area Known as Catalina Standpipe. (Point Loma Community Area. District 2.)

(See memorandum from Beryl Bailey Rayford dated 10/30/2008.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-769)                      ADOPTED AS RESOLUTION R-304639

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, a 10-Year Lease Agreement with the San Diego Metropolitan Transit System, a California public agency, under the terms and conditions set forth in the Agreement, for use of an approximately 160 square-foot equipment shelter and the placement of one antenna on the City's lattice antenna tower located at 200 Catalina Boulevard, San Diego, California at the area known as Catalina Standpipe;

Authorizing the City Comptroller, to accept rents pursuant to the Agreement and deposit the funds into Water Department Fund 41500, Revenue Account 75660.

**STAFF SUPPORTING INFORMATION:**

Staff has negotiated a new 10-year lease with the MTS. Under the proposed lease, the initial annual rent for the premises will be \$30,000. The rent will be increased annually by 4%: \$31,200 for year two, \$32,448 for year three, \$33,745.92 for year four and \$35,095.76 for year five. The rent for year six of the lease term will be determined by an appraisal of the site. The rent for years seven through ten will include an annual four percent (4%) escalation.

**FISCAL CONSIDERATIONS:**

Rent will be deposited into the Water Department Fund 41500, Revenue Account 75660. The initial annual rent is \$30,000 with an annual rent escalation of 4%. At the end of the fifth year of the new lease, a market rate adjustment will be determined by an appraisal of the site.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

Resolution No. R-277512, adopted on March 18, 1991, amending the Permit to extend the term for an additional five years.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The San Diego Metropolitan Transit System

Barwick/Jarrell

Staff: Carol Young - (619) 236-6081  
Debra J. Bevier - Deputy City Attorney

FILE LOCATION: LEAS – San Diego Metropolitan Transit System

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

CONSENT MOTION BY EMERALD 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-102: Payment of Fees to the Firm of Butz Dunn & DeSantis, APC Related to Defense of the City in Litigation Filed by Homeowners in the Vicinity of Soledad Mountain Road and Desert View Drive. (La Jolla/Mount Soledad CommunityArea. District 2.)

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-775) ADOPTED AS RESOLUTION R-304640

Authorizing the Mayor, or his designee, to increase the Contract by an additional amount not to exceed \$2,500,000 for a total amount not to exceed \$3,500,000 to pay attorney's fees and costs for the representation of the City in lawsuits as follows:

*Crabbe, et al. v. City of San Diego*, San Diego Superior Court Case No. 37-2008-00077405-CU-EI-CTL, filed on February 4, 2008; *Al-Quraini, et al. v. City of San Diego*, San Diego Superior Court Case No. 37-2008-00080246-CU-EI-CTL, filed

on March 19, 2008; *McCormick, et al. v. City of San Diego*, San Diego Superior Court Case No. 37-2008-00082194-CU-EI-CTL, filed on April 17, 2008; and *Dyer v. City of San Diego*, San Diego Superior Court Case No. 37-2008-00092648-CU-EI-CTL, filed on September 26, 2008;

Authorizing the City Comptroller to appropriate and expend the additional funds as reflected on the Full Time Equivalent schedule, which is attached as Exhibit 1, for the purpose of funding the Contract.

**SUPPORTING INFORMATION:**

In the latter part of 2007 a sudden natural event occurred in the vicinity of Soledad Mountain Road and Desert View Drive which resulted in significant damage to City infrastructure and private property. Three separate lawsuits have been filed against the City with a total of 92 individual plaintiffs. On October 9, 2007, the City Council authorized the Mayor to retain outside legal counsel to represent the City in regard to said claims and suits. As a result the City entered into a contract with the law firm of Butz Dunn & DeSantis, APC. The proposed action would authorize the Mayor's Office to increase the contract amount for legal fees of Butz Dunn & DeSantis in the amount not to exceed \$3,500,000.

**FISCAL CONSIDERATIONS:**

Payments related to this action will be made using the Fiscal Year 2009 FTE Cost Allocation Table; \$1,983,500 from General Fund and \$516,500 from Enterprise Funds.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

In Closed Session on October 9, 2007, by motion of District 7 and second by District 1, the City Council, by the following vote: Yeas, Districts 1, 2, 3, 7 and 8, Nays Districts 4 and 6 voted, with District 5 absent, to authorize the Mayor to retain outside counsel to represent the City.

This action was approved in Closed Session on January 27, 2009, by motion of District 2 and second by District 4; the City Council, by a unanimous vote; with District 7 absent, to authorize the Mayor's Office to increase the contract amount for legal fees of Butz Dunn & DeSantis.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** N/A

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

District 2 residents.

Bych/Lewis

Aud. Cert. 2900432 (Revised).

FILE LOCATION: MEET

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

MOTION BY FRYE 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-103: Grant Application to U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP) for Children's Initiative Diversion Project.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-765) ADOPTED AS RESOLUTION R-304641

Authorizing the Mayor, or his designee, for and on behalf of the City of San Diego, to apply for and accept a grant from the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention in an approximate amount of \$156,511 for the Children's Initiative Diversion Project;

Authorizing the City Comptroller, to accept, appropriate and expend approximately \$156,511 in grant funds, if secured, and to establish a special-interest bearing account for the grant funds;

Authorizing the Mayor, or his designee, to enter into an agreement subcontracting the greater part of the grant funds to the Children's Initiative Diversion Project for program expenditures;

Authorizing the Chief of Police to administer and oversee this program.

**STAFF SUPPORTING INFORMATION:**

The San Diego Police Department has been selected to receive a grant of approximately \$156,511 from U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP) to be implemented by The Children's Initiative. Because OJJDP required that the application be submitted by a government agency, SDPD agreed to serve as applicant and fiscal agent.

The Children's Initiative is a 501(c)(3) non-profit organization, the goal of which is to improve the well-being of children and youth in San Diego County. The Initiative builds and sustains strategic alliances with all sectors of the community, providing direct operational/organizational support and technical assistance to community based organizations, government institutions, schools and businesses.

Using an innovative school/law enforcement diversion partnership, the project works to keep children in school, improve youth decision making, and reduce youth contact with law enforcement and subsequent entrance into the juvenile justice system.

Through collaborative work with San Diego Unified School District and the San Diego Police Department, this project will implement diversion/intervention services to students identified as being at risk for dropping out and/or entering the justice system.

During a one-year period, the project will identify 150 students at the school site level using criteria developed by the partner agencies: poor attendance and problematic behaviors. A Juvenile Diversion specialist will develop individualized case plans, including intensive case management, mentoring, social skills training, problem solving, and referrals to other resources as needed. Intervening and providing supportive services for students when they first exhibit these risk behaviors will aim to increase student attendance, and decrease youths' involvement with juvenile crime and violence.

The specialist will monitor progress monthly, and long-term effects will be assessed at six and twelve months following youths' completion of the program. Assessment criteria will include school attendance and arrest/field contact reports, objective assessment tools, and family reports. Other than approximately \$1,500 for mandatory travel by an SDPD representative, the entire grant amount will be subcontracted to The Children's Initiative to fund salaries, supplies and operating expenses.

EEO:

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

FISCAL CONSIDERATIONS:

Approval of this project will result in no additional direct costs to the City or SDPD. There is no requirement for matching funds, nor to continue program operations or expenditures after funding is depleted or discontinued.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: NA

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The Children's Initiative.

Lansdowne/Olen

Staff: Donna J. Warlick - (619) 531-2221  
John C. Hemmerling - Deputy City Attorney

FILE LOCATION: MEET

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

CONSENT MOTION BY EMERALD 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-104: Appointments to the Historical Resources Board.

(See memorandum from Mayor Sanders dated 1/28/2009, with resumes attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-823)            ADOPTED AS RESOLUTION R-304642

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

<b><u>NAME</u></b>	<b><u>CATEGORY</u></b>	<b><u>TERM ENDING</u></b>
Salvador Aréchiga (University Heights, District 3) (Replacing John Eisenhart, who has resigned)	Architect	March 1, 2010
Alex Bethke (Normal Heights, District 3) (Replacing David Marshall, who has resigned)	At-Large Member	March 1, 2020

**FILE LOCATION:**            MEET

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

CONSENT MOTION BY EMERALD 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-105: Appointments to the Housing Commission.

(See memorandum from Mayor Sanders dated 1/27/2009, with resumes attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-822)            ADOPTED AS RESOLUTION R-304643

Council confirmation of the following appointments by the Mayor of the City of San Diego, to serve as members of the Housing Commission, for terms ending as indicated:

<b><u>NAME</u></b>	<b><u>TERM ENDING</u></b>
Gary Gramling (Downtown San Diego, District 2) (Replacing Todd Gloria, who has resigned)	January 2, 2013
Sam Guillen (Kensington, District 3) (Replacing Tyler Cramer, who has resigned)	January 2, 2011

**FILE LOCATION:**            MEET

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

CONSENT MOTION BY EMERALD 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-106: Appointment to the Centre City Development Corporation Board of Directors.

(See memorandum from Mayor Sanders dated 1/16/2009, with resume attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-802)            ADOPTED AS RESOLUTION R-304644

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Centre City Development Corporation Board of Directors, for a term ending as indicated:

<b><u>NAME</u></b>	<b><u>CATEGORY</u></b>	<b><u>TERM ENDING</u></b>
Manuel Oncina (Birdrock-La Jolla, District 1) (Replacing Edwin Teddy Cruz, who is not seeking reappointment)	Architect/Principal Designer	May 1, 2010

**FILE LOCATION:**            MEET

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

CONSENT MOTION BY EMERALD 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-107: Appointments to the Old Town Planned District Design Review Board.

(See memorandum from Mayor Sanders dated 1/27/2009, with resumes attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-824)            ADOPTED AS RESOLUTION R-304645

Council confirmation of the following appointments by the Mayor of the City of San Diego, to serve as members of the Old Town Planned District Design Review Board, for terms ending as indicated:

<b><u>NAME</u></b>	<b><u>CATEGORY</u></b>	<b><u>TERM ENDING</u></b>
Conrado Gallardo (Mira Mesa, District 5) (Replacing Norman Starr, who has resigned)	California Registered Architect	March 1, 2012
Christine Robinson (Old Town, District 2) (Replacing Olive Chivers, who has resigned)	Property Owner and Member of the Old Town Community Planning Committee	March 1, 2011

**FILE LOCATION:**            MEET

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

CONSENT MOTION BY EMERALD 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-108: San Diego Food Bank's San Diego Community Cares Project Launch Day.

**COUNCILMEMBER EMERALD'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-819)                      ADOPTED AS RESOLUTION R-304646

Proclaiming February 9, 2009, to be "San Diego Food Bank's San Diego CommunityCares Project Launch Day" in the City of San Diego.

FILE LOCATION:                      AGENDA

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

CONSENT MOTION BY EMERALD 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-109: Excusing Councilmember Tony Young from Attending the Regularly Scheduled City Council Meeting of January 20, 2009.

**COUNCILMEMBER YOUNG'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-804)                      ADOPTED AS RESOLUTION R-304647

Excusing Councilmember Tony Young from attending the regularly scheduled City Council meeting of January 20, 2009, because he was representing the City at various community events.

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

FILE LOCATION: AGENDA

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

CONSENT MOTION BY EMERALD 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-110: Excusing Councilmember Donna Frye from Attending the Regularly Scheduled City Council Meeting of January 20, 2009.

**COUNCILMEMBER FRYE’S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-817) ADOPTED AS RESOLUTION R-304648

Excusing Councilmember Donna Frye from attending the regularly scheduled City Council meeting of January 20, 2009, because she was representing the City at various community events.

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

FILE LOCATION: AGENDA

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

CONSENT MOTION BY EMERALD 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-111: Excusing Councilmember Marti Emerald from Attending the Regularly Scheduled Council Meetings of January 26-27, 2009.

**COUNCILMEMBER EMERALD'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-818)            ADOPTED AS RESOLUTION R-304649

Excusing Councilmember Marti Emerald from attending the regularly scheduled City Council meetings of January 26 and 27, 2009, due to illness.

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

FILE LOCATION:            AGENDA

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

CONSENT MOTION BY EMERALD 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-112: Declaring a Continued State of Emergency Regarding the Wildfires.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-735)            ADOPTED AS RESOLUTION R-304650

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: 10:29 a.m. – 10:36 a.m.)

CONSENT MOTION BY EMERALD 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-113: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-609) ADOPTED AS RESOLUTION R-304651

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: 10:29 a.m. – 10:36 a.m.)

CONSENT MOTION BY EMERALD 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-114: 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-2009-585)            ADOPTED AS RESOLUTION R-304652

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: 10:29 a.m. – 10:36 a.m.)

CONSENT MOTION BY EMERALD 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-115: 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-2009-617)            ADOPTED AS RESOLUTION R-304653

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 San Diego

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

CONSENT MOTION BY EMERALD 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-116: Asian Business Association Lunar New Year Day.

**COUNCILMEMBER GLORIA'S AND COUNCILMEMBER DEMAIO'S  
RECOMMENDATION:**

Adopt the following resolution:

(R-2009-800) ADOPTED AS RESOLUTION R-304658

Recognizing the Asian Business Association for its commitment to economic growth, community service, and leadership;

Proclaiming January 29, 2009, to be "Asian Business Association Lunar New Year Day" in the City of San Diego.

FILE LOCATION: AGENDA

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

CONSENT MOTION BY EMERALD 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-330: Modification of Appointments of the Mayor and City Councilmembers to SANDAG Board, Policy Committees, and Energy Working Group for Calendar Year 2009.

(See memorandum from Mayor Sanders and Council President Hueso dated 1/30/2009.)

**COUNCIL PRESIDENT HUESO'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2009-850)                      ADOPTED AS RESOLUTION R-304654

Declaring that the Mayor and City Council jointly modify their January 5, 2009, appointments of representatives to the San Diego Association of Governments (SANDAG) by removing Councilmember Carl DeMaio as Representative to the Public Safety Committee and as Second Alternate to the Transportation Committee, and by appointing Councilmember Marti Emerald to the following positions for the period ending December 31, 2009:

<b><u>OUTSIDE ORGANIZATION</u></b>	<b><u>POSITION</u></b>
San Diego Association of Governments- Board of Directors	First Alternate to Mayor Jerry Sanders
San Diego Association of Governments- Public Safety Committee	Representative
San Diego Association of Governments- Transportation Committee	Second Alternate

Subitem-B: (R-2009-851)                      ADOPTED AS RESOLUTION R-304655

Declaring that the Mayor and City Council jointly modify their January 5, 2009, appointments of representatives to the San Diego Association of Governments (SANDAG) by appointing Councilmember Sherri Lightner to the following positions for the period ending December 31, 2009:

**OUTSIDE ORGANIZATION**

San Diego Association of Governments-  
Board of Directors  
San Diego Association of Governments-  
Energy Working Group

**POSITION**

Second Alternate to  
Mayor Jerry Sanders  
First Alternate

Subitem-C: (R-2009-852)                      ADOPTED AS RESOLUTION R-304656

Declaring that the Mayor and City Council jointly modify their January 5, 2009, appointments of representatives to the San Diego Association of Governments (SANDAG) by removing Councilmember Kevin Faulconer as Second Alternate to the Regional Planning Committee, and by appointing Councilmember Todd Gloria to the following positions for the period ending December 31, 2009:

**OUTSIDE ORGANIZATION**

San Diego Association of Governments-  
Board of Directors  
San Diego Association of Governments-  
Regional Planning Committee

**POSITION**

Second Alternate to Council  
President Ben Hueso  
Second Alternate

Subitem-D: (R-2009-853)                      ADOPTED AS RESOLUTION R-304657

Declaring that the Mayor and City Council jointly modify their January 5, 2009, appointments of representatives to the San Diego Association of Governments (SANDAG) by removing Councilmember Marti Emerald as Second Alternate to the Public Safety Committee, and by appointing Councilmember Tony Young to the following positions for the period ending December 31, 2009:

**OUTSIDE ORGANIZATION**

San Diego Association of Governments-  
Board of Directors  
San Diego Association of Governments-  
Public Safety Committee

**POSITION**

First Alternate to Council  
President Ben Hueso  
Second Alternate

FILE LOCATION: MEET

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

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

MOTION BY FRYE TO ADOPT THE RESOLUTION IN SUBITEM B. Second by Emerald. Passed by the following vote: Lightner-recused, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

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

MOTION BY FRYE TO ADOPT THE RESOLUTION IN SUBITEM D. Second by Gloria. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-recused, DeMaio-yea, Frye-yea, Emerald-recused, Hueso-yea.



ITEM-331: Torrey Brooke II, Project No. 2118. A request to rezone a 2.13-acre site from AR-1 -1 to RS-1-13, a Tentative Map to allow the subdivision of the 2.13-acre site into three lots for residential development (two residential lots and one open space lot), a Planned Development Permit to allow access to Lot Two (2) via a private driveway, and a Site Development Permit in accordance with the Environmentally Sensitive Lands Regulations. The proposed two single-family residences would be approximately 4,642-square-feet and 4,812-square-feet respectively. (Torrey Highlands Community Plan Area. District 1.)

Matter of approving, conditionally approving, modifying or denying a request to rezone a 2.13-acre site from AR-1 -1 to RS-1-13, a Tentative Map to allow the subdivision of the 2.13-acre site into three lots for residential development (two residential lots and one open space lot), a Planned Development Permit to allow access to Lot Two (2) via a private driveway, and a Site Development Permit in accordance with the Environmentally Sensitive Lands Regulations. The proposed two single-family residences would be approximately 4,642-square-feet and 4,812-square-feet respectively.

The vacant 2.13-acre site is located on the west side of the southerly extension of La Harina Court within the Torrey Highlands Subarea Plan IV and is currently zoned AR-1-1, the project site is bordered roughly to the south by Adobe Bluffs Road, to the west, east, and north by single-family residences.

**\* Unless otherwise noticed or stated on the record at the hearing, if an ordinance is approved and introduced by the City Council, it will automatically be scheduled for a hearing by the City Council for final passage at 10:00 a.m. on the Tuesday two weeks after the subject hearing.**

(MND No. 2118/Public R-O-W Vacation No. 478535/TM No. 366169/PDP No. 366166/SDP No. 366167)

**STAFF'S RECOMMENDATION:**

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

Subitem-A: (O-2009-75)                      INTRODUCED, TO BE ADOPTED  
TUESDAY, MARCH 10, 2009

Introduction of an Ordinance changing 2.132-acres located at the end of La Harina Court and bordered roughly to the south by Adobe Bluffs Road, to the west, east, and north by single-family homes in the AR-1-1 Zone, within the Torrey Highland Subarea Plan IV, in the City of San Diego, California, from the AR-1-1 Zone into the RS-1-13 Zone, as defined by San Diego Municipal Code Sections 131.0401; and repealing Ordinance No. 18451 New Series, adopted December 9, 1997, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

Subitem-B: (R-2009-621)                      ADOPTED AS RESOLUTION R-304659

Adoption of a Resolution certifying that Mitigated Negative Declaration (MND) No. 2118/SCH. No. 200821118, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.) as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.), that the MND reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the MND, together with any comments received during the public review process, has been reviewed and

considered by this Council in connection with the approval of public right-of-way vacation, tentative map, planned development permit/site development permit and rezone for the Torrey Brooke II Project;

Finding that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study; therefore, MND No. 2118/SCH No. 200821118, a copy of which is on file in the Office of the City Clerk and incorporated by reference, is approved;

Pursuant to California Public Resources Code Section 21081.6, adopting the Mitigation, Monitoring, and Reporting Program, or alterations 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;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-C: (R-2009-622)                      ADOPTED AS RESOLUTION R-304660

Adoption of a Resolution approving Public Right-of-Way Vacation No. 478535, a portion of Black Mountain Road and Orange Grove Avenue, as more particularly described in Exhibit "A" and shown on Drawing No. B-4264, marked as Exhibit "B," attached thereto and made a part hereof, on file in the Office of the City Clerk, for the Torrey Brooke II Project;

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

Subitem-D: (R-2009-623) ADOPTED AS RESOLUTION R-304661

Adoption of a Resolution certifying findings, which are supported by the minutes, maps and exhibits, all of which are incorporated herein by reference, with respect to Tentative Map No. 366169;

Granting Tentative Map No. 366169 to Torrey Brooke Developments Inc., Applicant/Subdivider, and Civcom and Associates, Engineers, subject to the attached conditions which are made a part of this resolution by this reference.

Subitem-E: (R-2009-624) ADOPTED AS RESOLUTION R-304662

Adoption of a Resolution certifying findings, which are supported by the minutes, maps and exhibits, all of which are incorporated herein by reference, with respect to Planned Development Permit No. 366166 and Site Development Permit No. 366167;

Granting Planned Development Permit o. 366166/Site Development Permit No. 366167 to Torrey Brooke Developments Inc., Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

**OTHER RECOMMENDATIONS:**

Planning Commission on October 9, 2008, voted 6-0-1 to recommend the City Council certify the Mitigated Negative Declaration LDR No. 2118 and adopt the Mitigation Monitoring and Reporting Program; and adopt an ordinance to approve Rezone No. 366168; and approve the resolutions granting Tentative Map No. 366169, Planned Development Permit No. 366166, and Site Development Permit No. 366167.

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

The Rancho Peñasquitos Planning Board on September 3, 2008, recommended denial of this project.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

City Council certify Mitigated Negative Declaration No. 2118, and adopt the Mitigation, Monitoring, and Reporting Program and approve Rezone No. 366168, Tentative Map No. 366169, Planned Development Permit No. 366166, Street Vacation No. 478535 and Site Development Permit No. 366167, to allow the subdivision of 2.13-acres of vacant land into three lots to construct two, two-story, single family residences and one Open Space lot.

**STAFF RECOMMENDATIONS:**

1. **Certify** Mitigated Negative Declaration No. 2118, and **adopt** the Mitigation, Monitoring, and Reporting Program; and
2. **Approve** Rezone No. 366168, Tentative Map No. 366169, Planned Development Permit No. 366166, Street Vacation No. 478535 and Site Development Permit No. 366167.

**EXECUTIVE SUMMARY:**

The vacant 2.13-acre site is located on the west side of the southerly extension of La Harina Court within the Torrey Highlands Subarea Plan IV, and is currently zoned AR-1-1 (Agricultural). The project site is bordered roughly to the south by Adobe Bluffs Road, to the west, east, and north by single-family residences (Attachment 3). The project proposes the subdivision of a 2.13-acre site into three lots to allow the construction of two single-family residences of approximately 4,812-square-feet and 4,642 square-feet respectively. The project proposes to rezone the 2.13-acre site from AR-1-1 (Agriculture) to RS-1-13 (Residential). The RS-1-13 zone would allow for the single-family development. The proposed project also requires the vacation of two public rights-of-ways. The rights-of-ways were to be used for the construction of Black Mountain Road, the road has already been constructed and these easements are no longer required. In addition, rather than providing the required legal frontage and access to Lot Two (2) as required by the applicable development regulations, the applicant has requested a Planned Development Permit, which allows the necessary legal frontage to be served via a private driveway extending southerly from La Harina Court. Staff supports the deviation which allows greater flexibility in the design of the project.

Staff has reviewed the proposed project and determined that, with the exception of the proposed deviations, the project meets all relevant regulations and is consistent with the purpose and intent of the regulations in effect for this site. Staff supports the proposed project as evidenced by the draft resolution of approval.



**FISCAL CONSIDERATIONS:**

All cost associated with this project are recovered from a deposit account maintained by the applicant.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

On October 9, 2008, the Planning Commission voted 6-0-1 to recommend approval of the project to the City Council.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

On July 2, 2008, the applicants presented the proposed project before the Rancho Penasquitos Planning Board for another review. The Board decided not to issue another official vote and their initial vote of 11-0-1 to recommend approval was still valid as of September 2, 2008. However, on September 3, 2008, the Board unanimously rescinded their previous approval and voted unanimously to deny the project.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):**

Torrey Brooke Developments Inc.

Broughton/Anderson/DJ

**LEGAL DESCRIPTION:**

The project is located in Torrey Highlands (Subarea IV); on the west side of the southerly extension of La Harina Court, east of Camino Ruiz, west of Black Mountain Road, and south of Carmel Valley Road. (APN No. 306-030-0400, Remainder Parcel of Torrey Brooke, Tract No. 98-1189, Parcel Map No. 14383), City and County of San Diego, California.

Staff: Derrick Johnson – (619) 446-5238

Nina Fain – Deputy City Attorney

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

FILE LOCATION: SUBITEM A: NONE  
SUBITEM B, D & E: MEET  
SUBITEM C: STRT-J-2998 (39)

COUNCIL ACTION: (Time duration: 2:05 p.m. – 2:43 p.m.)

Testimony in Opposition by Janelle Young.

Testimony in Favor by Russell De Phillips

MOTION BY LIGHTNER TO INTRODUCE THE ORDINANCE IN SUBITEM A AND TO ADOPT THE RESOLUTIONS IN SUBITEMS B, C, D AND E. 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-332: Scripps Miramar Ranch Community Plan Amendments, an amendment to the Scripps Miramar Ranch Community Plan and General Plan related to adding language for additional public safety related facilities within the Scripps Miramar Ranch Community Planning Area. In addition, an amendment to the Scripps Miramar Ranch Community Plan to reclassify Scripps Ranch Boulevard between Carroll Canyon Road and Aviary Drive from a four-lane major street to a two-lane collector street is being proposed to allow for permanent street improvements. (Scripps Miramar Ranch Community Plan Area. District 5.)

Matter of approving, conditionally approving, modifying or denying an amendment to the Scripps Miramar Ranch Community Plan and General Plan related to adding language for additional public safety related facilities (i.e. fire and medical) to adequately service existing and future development within the Scripps Miramar Ranch Community Planning Area. In addition, an amendment to the Scripps Miramar Ranch Community Plan to reclassify Scripps Ranch Boulevard between Carroll Canyon Road and Aviary Drive from a four-lane major street to a two-lane collector street is being proposed to allow for permanent street improvements.

(See Report to Planning Commission No. PC-08-114)

**STAFF'S RECOMMENDATION:**

Adopt the resolution:

(R-2009-820)                      ADOPTED AS RESOLUTION R-304663

Adoption of a Resolution adopting an amendment to the Scripps Miramar Ranch Community Plan to facilitate additional public safety related facilities and roadway reclassification in the Scripps Miramar Community.

**OTHER RECOMMENDATIONS:**

Planning Commission on October 23, 2008, voted 4-0-3 to approve.

Ayes: Shultz, Ontai, Otsuji, Golba

Not present: Naslund, Griswold, Smiley

The Scripps Miramar Ranch Community Planning Group has recommended approval of this project.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

A request is being made to review and vote on two (2) potential community plan amendments being made to the Scripps Miramar Ranch community plan. The first amendment would add language to allow for future public safety related facilities for existing development and as development occurs. The second amendment would reclassify a portion of Scripps Ranch Boulevard from Carroll Canyon Road to Aviary Drive, from a four-lane major street to a two-lane collector.

**STAFF RECOMMENDATION:** Adopt the resolution.

**EXECUTIVE SUMMARY:**

**Fire Station**

Scripps Miramar Ranch Community is served by Fire Station 37, located on Spring Canyon Road, which is located in the community of Miramar Ranch North. The Public Facilities Element of the Scripps Miramar Ranch community plan only identifies this station to serve the community.

The Fire-Rescue Department is very concerned about its ability to adequately serve the community to respond to fire and medical emergencies within the national response time standard of 5 minutes or less, 90% of the time. This concern is due in part to a steady increase in the number of incidents the station responds to, the size of Station 37's district and response times below the citywide average for meeting the 5 minute response standard (45%). In order to increase the response times of the Fire-Rescue Department, the Scripps Miramar Ranch Community Plan needs to be amended to identify the need for additional facilities. The amendment would add the language which identifies the need to provide additional public safety related facilities for existing development and as development occurs.

Roadway Reclassification

A reclassification of Scripps Ranch Boulevard from Carroll Canyon Road to Aviary Drive, from a 4-lane major street to a 2-lane collector is requested as the second part of the amendment. The reclassification would allow for permanent improvements as desired by the community and would include a raised, landscaped center median, class two bike lanes, on-street parking and sidewalks.

FISCAL CONSIDERATIONS:

All costs associated with the processing of these plan amendments are paid through General Plan Monies budgeted for the City Planning & Community Investment department.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The Planning Commission passed a recommendation to City Council to approve the amendments to the General Plan and the Scripps Miramar Ranch Community Plan.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On June 5, 2008, the Scripps Ranch Planning Group voted 14-0-0 to recommend approval of the proposed community plan amendments.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

No property owners, business owners or developers have a direct financial interest. However, approval of the proposed plan amendments would benefit property and business owners, developers as well as residents in the Scripps Miramar Ranch community by completing the first step to locate additional fire stations in the community and would allow construction of permanent improvements to a segment of Scripps Ranch Boulevard.

Wright/Anderson/DM

Staff: Dan Monroe – (619) 236-5529  
Shannon Thomas – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:43 p.m. – 2:52 p.m.)

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



ITEM-333: Vacation of a Portion of Jamacha Road and Cardiff Street. Project No. 162129. Request for a Street Reservation on lot "B" Map 2998 to be vacated. Located at the corner of Cardiff Street and Jamacha Road. Real Estate Assets project for future Land Sale (City owned land). (Skyline-Paradise Hills CommunityPlan Area. District 4.)

Matter of approving, conditionally approving, modifying or denying a request for a Street Reservation on lot "B" Map 2998 to be vacated. Located at the corner of Cardiff Street and Jamacha Road. Real Estate Assets project for future Land Sale (City owned land). Located in the Skyline-Paradise Hills CommunityPlan Area. Council District 4.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-829) ADOPTED AS RESOLUTION R-304664

Adoption of a Resolution authorizing the vacation of a portion of Jamacha Road and Cardiff Street.

**OTHER RECOMMENDATIONS:**

This item was not required to go before the Planning Commission for a recommendation.

The Skyline/Paradise Hills Planning Group on December 9, 2008, voted to recommend approval of the street vacation.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Authorize vacation of a portion of Jamacha Road and Cardiff Street described in the Legal Description Exhibit "A" and as shown on Engineering Drawing No. 20890-B.

**STAFF RECOMMENDATION:**

Approve the requested action.

**EXECUTIVE SUMMARY OF ITEM BACKGROUND:**

The area to be vacated is an unimproved area of land lying south of Jamacha Road at the corner of Cardiff Street. This is a remnant portion of the street that was dedicated by Lomita Village Unit No. 5 Map No. 2998, recorded June 4, 1953. The portion of the street to be vacated is currently a vacant lot and was approved for sale by Council Resolution R-302653 dated May 29, 2007. On December 9, 2008, the Skyline-Paradise Hills Planning Committee recommended approval of the street vacation. City Staff recommends approval of the street vacation.

**FINDINGS:**

Staff review has indicated that the area to be vacated may be summarily vacated and that the four required findings for vacation can be made. These findings are:

- a. That there is no prospective use for the right-of-way, either for the facility for which it was originally acquired, or for any other public use of a like nature that can be anticipated. There are no plans for a street to be constructed or widened at this location.
- b. That the public will benefit from the action through improved utilization of land made possible by the street vacation. The land shall be sold and relieve the City of any future liabilities.
- c. That the vacation is not inconsistent with the General Plan and approved Community Plan. The portion of the street being vacated is not part of the community plan transportation element and the land would revert to a commercial zone, which is consistent with the community plan land use designation. The Skyline-Paradise Hills Planning Committee recommends approval of the street vacation.

- d. This street has no use and will not be extended. There are no present or future plans to construct a street in this area.

FISCAL CONSIDERATIONS: None.

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

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Skyline-Paradise Hills Planning Group approved the street vacation at their December 9, 2008 meeting.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The Community and City will benefit from the vacation and eventual sale of a property that has been prone to illegal parking and trash dumping.

Jarell/Barwick

**NOTE:** This activity is Categorically exempt from CEQA pursuant to Section 15305 (minor alterations and land use limitations) of the State CEQA Guidelines.

**COMMENTS:** The vacation is being processed under the California Public Streets and Highways Code Section 8330.

Staff: B. Lane MacKenzie – (619) 235-6050 or Mary Carlson – (619) 236-6079  
Brock Ladewig – Deputy City Attorney

FILE LOCATION: STRT – J-2994 (39)

COUNCIL ACTION: (Time duration: 2:52 p.m. – 2:55 p.m.)

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



ITEM-334: Playa del Sol, Project No. 4925. An application for a Planned Development Permit to construct 16 multi-story condominium structures consisting of 1,578 multi-family units and for deviations to the height and setback requirements; a Vesting Tentative Map and Easement Vacations to subdivide the 45.97 acre site into three (3) lots for a residential condominium development and one Homeowners Association lot. (Otay Mesa Community Plan Area. District 8.)

Matter of approving, conditionally approving, modifying or denying an application for a Planned Development Permit to construct 16 multi-story condominium structures consisting of 1,578 multi-family units and for deviations to the height and setback requirements of the RM-3-7 Zone; a Vesting Tentative Map and Easement Vacations to subdivide the 45.97 acre site into three (3) lots for a residential condominium development and one Homeowners Association lot. The project site is located south of Ocean View Hills Parkway, north of State Route 905, and west of A Street in the RM-3-7 zone in California Terraces Precise Plan (Planning Area 6) and within the Otay Mesa Community Plan Area.

(Continued from the meeting of January 20, 2009, Item 330, at the request of Development Services Department Staff for further review.)

**NOTE:** Hearing open. No testimony taken.

**STAFF'S RECOMMENDATIONS:**

Adopt the following resolutions:

Subitem-A: (R-2009-641 Cor. Copy 2) ADOPTED AS RESOLUTION R-304665

Adoption of a resolution certifying that Addendum No. 4925 to Environmental Impact Report No. 86-1032, 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 report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a vesting tentative map, an easement abandonment, and a planned development permit for the Playa del Sol Project;



Adopting the Statement of Overriding Considerations pursuant to California Code of Regulations Section 15093, a copy of which is attached as Exhibit "B," and is on file in the Office of the City Clerk and incorporated herein by reference, with respect to the project;

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

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2009-642 Cor. Copy 3) ADOPTED AS RESOLUTION R-304666

Adoption of a resolution certifying findings with respect to Planned Development Permit No. 8075, which are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference;

Granting Planned Development Permit No. 8075 to Pardee Homes, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

Subitem-C: (R-2009-643 Cor. Copy 3) ADOPTED AS RESOLUTION R-304667

Adoption of a resolution certifying findings with respect to Vesting Tentative Map No. 551809, which are supported by the minutes, maps and exhibits, all of which are incorporated herein by reference;

Declaring that pursuant to California Government Code Section 66434(g), retention basin easement granted per Document No. 1999-0400948, recorded June 9, 1999, page 2517, City Drawing 27980-4, 22-D and temporary construction area easement granted per Document No. 1999-0400948, page 2518, recorded June 9, 1999, City Drawing 27980-4, 22-D, located within the project boundaries as shown in Vesting Tentative Map No. 551809T, shall be vacated, contingent upon the recordation of the approved map for the project and that said

Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference;

Granting Vesting Tentative Map No. 551809 and Easement Vacation No. 580203 to Pardee Homes, Applicant/Subdivider and Project Design Consultants, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

**OTHER RECOMMENDATIONS:**

On November 13, 2008, the Planning Commission voted 4-2-0 to approve the project with two suggestions: 1) use solar photovoltaic for the common areas, and 2) switch Buildings 8 and 9 (4-stories) with Buildings 12 and 13 (3-stories) to place the shorter buildings adjacent to the single-family homes to the north of the site. The applicant is investigating the use of photovoltaic for the common areas and has agreed to a permit condition that requires Buildings 8 and 9 to be 3-stories and Buildings 12 and 13 to be 4-stories.

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

The Otay Mesa Community Planning Group has recommended approval of this project.

**REQUESTED ACTIONS:**

Vesting Tentative Map; Easement Vacations; and a Planned Development Permit to construct 16 multi-story condominium structures consisting of 1,578 multi-family units on a previously graded 45.97 acre site in Planning Area 6 of the California Terraces Precise Plan (CTPP) within the Otay Mesa Community Plan area.

**STAFF RECOMMENDATIONS:**

1. **Certify** Addendum No. 4925 to Final Environmental Impact Report No. 86-1032; and **adopt** the Mitigation, Monitoring and Reporting Program.
2. **Approve** Vesting Tentative Map No. 551809; Easement Vacation No. 580203; and Planned Development Permit No. 8075.

EXECUTIVE SUMMARY:

The 45.97 acre project site is located south of Ocean View Hills Parkway, north of State Route 905 and west of A Street within the CTPP, Planning Area 6 and the Otay Mesa Community Plan area. The land use designation is medium-high residential and the zoning is RS-1-14 and RM-3-7, which allows for multi-family residential development.

In 1994, the City of San Diego certified the Final Environmental Impact Report (FEIR) for the California Terraces Precise Plan. Currently, the majority of the CTPP area has been either mass graded or is developed, including the subject site. The site is not adjacent to the Multiple Habitat Planning Area (MHPA).

The proposed project consists of 1,578 multi-family units within 16 multi-story condominium structures. The 16 residential buildings would consist of 10 four-story buildings and 6 three-story building. The units would range in size from one to four bedrooms (1,050 square feet to 1,400 square feet). Two levels of underground parking would be provided within each of the residential buildings. The project would also include three 9,600 square-foot recreational buildings and associated common open space. Access to the site would be provided from two locations along the future Old Otay Mesa Road/proposed public Street A and Del Sol Boulevard.

A Vesting Tentative Map is requested to subdivide the site into three lots for residential condominium development and one for a Home Owner's Association lot. There is also a request to vacate a retention basin and a temporary construction easement. The easements were necessary for the widening of Otay Mesa Road, however now that the road widening has been completed the easements are no longer necessary.

A Planned Development Permit is required to grant deviations from the RM-3-7 height limit of 40 feet to a maximum of 58 feet. The increase in height is necessary to accommodate the density envisioned by the California Terraces Precise Plan. The height deviation will allow more units to be built on the site than if the 40-foot height limit were strictly applied.

Deviations from the RM-3-7 zone setback requirements are requested for street side yards and side yard setbacks. The setback deviations are supported. The density envisioned in the California Terraces Precise Plan would not be achieved if the setback was strictly applied and the proposed setbacks are consistent with the surrounding development pattern.

FISCAL CONSIDERATIONS:

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

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

In 1994, the City of San Diego certified Final Environmental Impact Report No. 86-1032 for the California Terraces Precise Plan.

**PLANNING COMMISSION ACTION:**

On November 13, 2008, the Planning Commission voted 4:2:0 to approve the project with two suggestions: 1) use solar photovoltaic for the common areas, and 2) switch Buildings 8 and 9 (4-stories) with Buildings 12 and 13 (3-stories) to place the shorter buildings adjacent to the single-family homes to the north of the site. The applicant is investigating the use of photovoltaic for the common areas and has agreed to a permit condition that requires Buildings 8 and 9 to be 3-stories and Buildings 12 and 13 to be 4-stories.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

On August 16, 2006, the Otay Mesa Planning Group voted 14-2-0 to support the project with the following conditions: 1) consider noise attenuation for the residents; 2) analyze traffic calming measures on Ocean View Hills Parkway; and 3) examine the inclusion of bus transit in the community. These issues were analyzed, but were not implemented. For a discussion see attached report (PC-08-151), Community Planning Group Recommendation Section.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):**

Pardee Homes

Broughton/PG

**LEGAL DESCRIPTION:**

The site is located within the Otay Mesa Community Planning Area in the RM-3-7 Zone and California Terraces Precise Plan (Planning Area 6). (Northwest quarter of section 25, township 18 south, range 2 west, San Bernardino meridian).

Staff: Patricia Grabski – (619) 446-5277  
Keith Bauerle – Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:26 p.m. – 6:12 p.m.)

Testimony in Opposition by Jarvis Ross.

Testimony in Favor by David Dunham.

MOTION BY GLORIA TO ADOPT STAFF'S RECOMMENDATION TO CERTIFY ADDENDUM NO. 4925 TO THE ENVIRONMENTAL IMPACT REPORT; TO ADOPT THE STATEMENT OF OVERRIDING CONSIDERATIONS; TO ADOPT THE MITIGATION, MONITORING AND REPORTING PROGRAM; AND TO APPROVE THE VESTING TENTATIVE MAP, EASEMENT VACATION, PLANNED DEVELOPMENT PERMIT AND CERTIFY FINDINGS. Second by Hueso. Passed by the following vote: Lightner-yea, Falconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-nay, Emerald-yea, Hueso-yea.



ITEM-335: Supporting Legislation to Amend State Law to Permit Marine Mammals to Inhabit the Children's Pool Beach in La Jolla, California and Directing the City's Intergovernmental Relations Department to Seek Such Legal Legislation. (Children's Pool Beach in La Jolla. District 1.)

(See Report from the City Attorney dated 2/9/2009.)

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-834) ADOPTED AS AMENDED AS RESOLUTION R-304668

Supporting amendment of the 1931 Tidelands Trust by the California Legislature to afford the City discretion to permit marine mammals to inhabit the Children's Pool and discretion to preserve the marine mammals' habitat at the Children's Pool; and

Directing the City's Intergovernmental Relations Department to pursue such a legislative amendment to the 1931 Tidelands Trust.

**SUPPORTING INFORMATION:**

In 1930, Ellen Browning Scripps constructed a concrete breakwater on the west side of what is now known as the "Children's Pool" in La Jolla, California. At the time of the construction of the breakwater, the adjacent tidelands were held in public trust by the State of California. In 1931, the California Legislature passed the Tidelands Trust, Stats. 1931, Ch. 937, and named the City of San Diego as the trustee of the Children's Pool. The statute creating the Trust provides, "That said lands shall be devoted exclusively to public park, bathing pool for children, parkway, highway, playground and recreational purposes, and to such other uses as may be incident to, or convenient for the full enjoyment of such purposes."

During the last decade, a colony of seals has inhabited the Children's Pool. An official with the federal National Marine Fisheries Service in 2004 estimated that approximately 1 million people visit the Children's Pool annually. However, a Superior Court judge ruled in the case of *Valerie O'Sullivan v. City of San Diego*, Case No. D047382, that the Trust does not permit the Children's Pool to be used as a habitat, a marine sanctuary, zoo or seal watching facility.

The Superior Court recently pronounced that the City should make plans to disperse the seals. Numerous citizens, including children, have petitioned the City to allow the seals to remain at the Children's Pool.

The Legislature has the authority to amend or revoke a public trust. The proposed Resolution would support legislation to amend the 1931 Tidelands Trust to permit the City, as trustee, to allow marine mammals to continue to inhabit the Children's Pool and to preserve the marine mammals' habitat. This proposed amendment to the Trust is consistent with the Trust's original intent that the Children's Pool be a source of recreation for children. It is also consistent with a recent appellate court decision that held protection of undomesticated wildlife is a trustee's obligation under the public trust doctrine. The Resolution mandates that the City's Intergovernmental Relations Department seek such legislation.

**FISCAL CONSIDERATIONS:** None.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

On January 27, 2009, the City Council voted 6-1 in Closed Session (Councilmember Emerald not present) to advance the proposal to amend the 1931 Tidelands Trust to open session before expiration of the Legislature's deadline for submission of proposed legislation.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On January 26, 2009, the Council heard public comment on this issue in conjunction with a related Closed Session item that was heard on January 27, 2009.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Not applicable.

Schaefer

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:55 p.m. – 5:21 p.m.)

Testimony in Opposition by Paul Kennerson, John Steel, Thelma Silebi, Margaret Beauchamp, Michael Dong, Sierra Young, Joseph Nguyen, Debbie Beacham, John Leek, Steve Cross, Larry Asakawa, Christopher Davis, Tara O’Connor, David Ploessel and Stephen Haynes.

Testimony in Favor by Kath Rogers, Richard Wharton, Bryan Pease, Norm Blumenthal, Linda Jalving, Richard Wharton, Gene Hahn, Andrea Hahn, Marjane Saalam, Lynn Bruser and Serge Dedina

MOTION BY FRYE TO ADOPT AS AMENDED TO APPROVE THE CITY ATTORNEY’S RECOMMENDATION AS FOLLOWS: “BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN DIEGO THAT THE COUNCIL SUPPORTS AMENDMENT OF THE 1931 TIDELANDS TRUST BY THE CALIFORNIA LEGISLATURE TO AFFORD THE CITY DISCRETION TO PERMIT MARINE MAMMALS TO INHABIT THE CHILDREN’S POOL AND DISCRETION TO PRESERVE THE MARINE MAMMALS’ HABITAT AT THE CHILDREN’S POOL WHILE MAINTAINING DISCRETION TO ALLOW USES ALREADY SET FORTH IN THE 1931 TRUST AND ANY JOINT USE THEREOF.” Second by Gloria. Passed by the following vote: Lightner-yea, Faulconer-yea, Gloria-yea, Young-yea, DeMaio-yea, Frye-yea, Emerald-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Pro Tem Faulconer at 6:59 p.m. in honor of the memory of:

Rudolph Allister Johnson as requested by Council Member Young,  
“King” George Stahlman as requested by Council Member Emerald; and  
Robert Frazee as requested by Council President Pro Tem Faulconer.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 6:59 p.m. – 7:03 p.m.)

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Elizabeth S. Maland, City Clerk  
City of San Diego