

March 16, 2016

STATEMENT OF PROCEEDINGS

The Minutes of the

***BOARD OF SUPERVISORS
REGULAR MEETING
PLANNING AND LAND USE MATTERS***

COUNTY OF SAN DIEGO

STATEMENT OF PROCEEDINGS
COUNTY OF SAN DIEGO BOARD OF SUPERVISORS
REGULAR MEETING
MEETING AGENDA
WEDNESDAY, MARCH 16, 2016, 9:00 A.M.
BOARD OF SUPERVISORS NORTH CHAMBER
1600 PACIFIC HIGHWAY, ROOM 310, SAN DIEGO, CALIFORNIA

REGULAR SESSION – Called to order at 9:04 a.m.

PRESENT: Supervisors Dianne Jacob, Vice Chairwoman; Greg Cox; Dave Roberts; Bill Horn; also David Hall, Clerk of the Board.

ABSENT: Supervisor Ron Roberts, Chairman.

Approval of the Statement of Proceedings/Minutes for the meeting of March 2, 2016.

ACTION:

ON MOTION of Supervisor D. Roberts, seconded by Supervisor Horn, the Board of Supervisors approved the Statement of Proceedings for the meeting of March 2, 2016.

AYES: Jacob, D. Roberts, Horn

ABSENT: R. Roberts, Cox

NOTICE: THE BOARD OF SUPERVISORS MAY TAKE ANY ACTION WITH RESPECT TO THE ITEMS INCLUDED ON THIS AGENDA. RECOMMENDATIONS MADE BY COUNTY STAFF DO NOT LIMIT ACTIONS THAT THE BOARD OF SUPERVISORS MAY TAKE. MEMBERS OF THE PUBLIC SHOULD NOT RELY UPON THE RECOMMENDATIONS IN THE BOARD LETTER AS DETERMINATIVE OF THE ACTION THE BOARD OF SUPERVISORS MAY TAKE ON A PARTICULAR MATTER.

Board of Supervisors' Agenda Items

Agenda # Subject

1. NOTICED PUBLIC HEARING:
 KELLY-AUFMANN-LAU OPEN SPACE VACATION, PDS2015-VAC-15-001;
 SAN DIEGUITO COMMUNITY PLAN AREA (3/2/2016 – SET HEARING;
 3/16/2016 – HOLD HEARING)

2. 2015 GENERAL PLAN ANNUAL PROGRESS REPORT

3. OPTIONS TO AMEND COUNTY REGULATORY CODE AND ZONING
 ORDINANCE AND URGENCY ORDINANCE ENACTING A MORATORIUM
 RELATED TO MEDICAL MARIJUANA COLLECTIVE FACILITIES
 (4 VOTES)

4. ADOPT A RESOLUTION TO APPLY FOR AND ACCEPT GRANT FUNDS FROM THE CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY
[FUNDING SOURCES: GRANTS RECEIVED BY THE CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE) AND ANNUAL PERMIT AND SOLID WASTE TONNAGE FEE REVENUE]
5. ADOPT A RESOLUTION TO APPLY FOR AND ACCEPT PROPOSITION 1, THE WATER QUALITY, SUPPLY AND INFRASTRUCTURE IMPROVEMENT ACT OF 2014, GRANT FUNDS
6. ADMINISTRATIVE ITEM:
SECOND CONSIDERATION AND ADOPTION OF ORDINANCE: IMPACT FEE DEFERRAL PROGRAM PERMANENT EXTENSION (3/2/2016 – FIRST READING; 3/16/2016 – SECOND READING)

(RELATES TO FLOOD CONTROL DISTRICT AGENDA NO. FL1 AND SANITATION DISTRICT AGENDA NO. SA3)

**1. SUBJECT: NOTICED PUBLIC HEARING:
KELLY-AUFMANN-LAU OPEN SPACE VACATION,
PDS2015-VAC-15-001; SAN DIEGUITO COMMUNITY PLAN
AREA (3/2/2016 – SET HEARING; 3/16/2016 – HOLD
HEARING) (DISTRICT: 5)**

OVERVIEW:

On March 2, 2016 (6), the Board set a Hearing for March 16, 2016.

Application date: March 18, 2015

This is a request for the Board of Supervisors (Board) to consider the vacation of 2,101 square feet of dedicated open space easement on Lots 145 and 146 (Subdivision Map 9736), and replace with 2,101 square feet of open space dedication located 20 feet east of the area proposed for vacation. The portion of the easement requested to be vacated by the applicants was dedicated in association with the Fairbanks Ranch Specific Plan, which was approved by the Board of Supervisors on January 16, 1978 (N/A). This request is related to Boundary Adjustment, PDS2015-BC-15-0020, which has been conditionally approved by the Director of Planning & Development Services pending approval by the Board of the vacation of the open space easement pursuant to Board Policy I-103: Open Space Easement Vacations and the Streets and Highways Code.

The existing open space easement was dedicated on lots 145 and 146 for the sole purpose of meeting the Fairbanks Ranch Specific Plan clustering and development policy. In order to remain consistent with the Specific Plan, 2,101 square feet of open space is proposed to be rededicated on lots 145 and 146, 20 feet to the east. The case number for this project is: PDS2015-VAC-15-001.

The involved properties are 1.5 to 2.3 acres and located in the San Dieguito Community Plan area, 3.3 miles east of Interstate 5 (I-5). No new construction is proposed.

Today's request requires two steps: On March 2, 2016, it is requested that the Board set a date for a public hearing on March 16, 2016 and provide public notice of that hearing. If the Board takes the actions recommended for March 2, 2016, then on March 16, 2016, it is requested that the Board consider and adopt a resolution to vacate the referenced open space easement and record the resolution of vacation.

The project is located at 15931 Via De Santa Fe, in the San Dieguito Community Plan Area, Thomas Guide Page 1188 E/6.

FISCAL IMPACT:

N/A

BUSINESS IMPACT STATEMENT:

N/A

RECOMMENDATION:

DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES

1. Adopt the environmental findings included in Attachment E, which includes findings in accordance with Sections 15162 through 15164 of the California Environmental Quality Act (CEQA) Guidelines that there are no substantial changes in the project or in the circumstances under which the project is undertaken that involve significant new environmental impacts which were not considered in the previously certified EIR dated January 16, 1978, that there is no substantial increase in the severity of previously identified significant effects, and that no new information of substantial importance has become available since the EIR was certified.
2. Adopt the Resolution entitled: A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO VACATING PUBLIC SERVICE EASEMENT PDS2015-VAC-15-001, (Attachment C).
3. Direct the Clerk of the Board to record the Resolution pursuant to the Streets and Highways Code Section 8325 and then record the rededication easement concurrently.

ACTION:

ON MOTION of Supervisor Horn, seconded by Supervisor Cox, the Board closed the Hearing and took action as recommended, on Consent, adopting Resolution No. 16-026, entitled: A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO VACATING PUBLIC SERVICE EASEMENT PDS2015-VAC-15-001.

AYES: Cox, Jacob, D. Roberts, Horn

ABSENT: R. Roberts

2. **SUBJECT: 2015 GENERAL PLAN ANNUAL PROGRESS REPORT (DISTRICTS: ALL)**

OVERVIEW:

In accordance with State law, all counties must submit an annual progress report (APR) to the State Office of Planning & Research and State Housing and Community Development Department (State HCD) on the status of the General Plan implementation by April 1 of each year. Submission of the APR to State HCD fulfills statutory requirements to report certain information pertaining to the Housing Element (HE) of the General Plan, including the County's progress in meeting its share of regional housing needs and local efforts to remove governmental constraints to the development of housing. State law further mandates that the HE portion of the APR be considered at a public meeting before the Board of Supervisors.

The purpose of the APR is to inform the Board of Supervisors and residents of San Diego County about the status of implementing the County General Plan, housing issues, and major planning projects for the unincorporated county. It summarizes

the planning activities for the unincorporated portions of San Diego County calendar year from January 1 to December 31, 2015, and identifies ongoing and completed relevant planning activities, programs, and permits. The APR is provided as Attachment A.

Today's action requests the Board receive the 2015 General Plan Progress Report, including the 2015 Housing Element Annual Report.

FISCAL IMPACT:

There is no fiscal impact associated with receiving the General Plan Annual Progress Report. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT:

N/A

RECOMMENDATION:

CHIEF ADMINISTRATIVE OFFICER

Receive the 2015 General Plan Annual Progress Report, which includes the 2015 Housing Element Annual Report.

ACTION:

ON MOTION of Supervisor D. Roberts, seconded by Supervisor Cox, the Board took action as recommended receiving the 2015 General Plan Annual Progress Report, which includes the 2015 Housing Element Annual Report.

AYES: Cox, Jacob, D. Roberts, Horn

ABSENT: R. Roberts

3. **SUBJECT: OPTIONS TO AMEND COUNTY REGULATORY CODE AND ZONING ORDINANCE AND URGENCY ORDINANCE ENACTING A MORATORIUM RELATED TO MEDICAL MARIJUANA COLLECTIVE FACILITIES (DISTRICTS: ALL)**

OVERVIEW:

On February 3, 2016, during the public communication segment of the Board of Supervisors meeting, nine speakers addressed the Board of Supervisors regarding their concerns with marijuana dispensaries. The Board of Supervisors referred the matter to the Chief Administrative Officer, with a request to return with potential options now available for regulating medical marijuana collective facilities in light of a recent California Supreme Court decision allowing local municipalities to ban marijuana facilities, newly adopted State laws pertaining to medical marijuana and ballot initiatives slated for the upcoming November election.

Today's action provides the Board options for regulating medical marijuana and the ability to provide additional direction to staff to further address this matter.

An interim urgency ordinance enacting a moratorium is available to the Board should the Board choose to further explore options for medical marijuana collective facilities ("collective facilities"). The interim urgency ordinance would allow County staff the time needed to prepare and return with the appropriate actions based on the Board's direction. The interim urgency ordinance would prohibit to the extent allowed by law the ability for new medical marijuana collective facilities to be established.

FISCAL IMPACT:

N/A

BUSINESS IMPACT STATEMENT:

N/A

RECOMMENDATION:

CHIEF ADMINISTRATIVE OFFICER

1. Find that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(3) and 15378 of the State CEQA Guidelines.
2. Receive staff's report and provide further direction.
3. If the Board chooses; adopt the attached Form of Ordinance (Attachment A):
AN ORDINANCE ENACTING A MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA COLLECTIVE FACILITIES, AND DECLARING THE URGENCY THEREOF, TO TAKE EFFECT IMMEDIATELY.
(4 VOTES)

ACTION:

Noting that an errata had been distributed, ON MOTION of Supervisor Jacob, seconded by Supervisor Horn, the Board took action as recommended and directed the Chief Administrative Officer to return to the Board with Options 1, 2 (including 2a, 2b, and 2c), 3 and 5, with an additional option to require a Major Use Permit for marijuana dispensaries; and adopted Ordinance No. 10419 (N.S.) entitled: AN ORDINANCE ENACTING A MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA COLLECTIVE FACILITIES, AND DECLARING THE URGENCY THEREOF, TO TAKE EFFECT IMMEDIATELY.

AYES: Cox, Jacob, D. Roberts, Horn

ABSENT: R. Roberts

4. SUBJECT: ADOPT A RESOLUTION TO APPLY FOR AND ACCEPT GRANT FUNDS FROM THE CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (DISTRICTS: ALL)

OVERVIEW:

In 1991, the former California Integrated Waste Management Board (CIWMB) (now the California Department of Resources Recycling and Recovery or “CalRecycle”), certified the Department of Environmental Health (DEH) as the Solid Waste Local Enforcement Agency for permitting, inspection, and enforcement on all solid waste sites throughout San Diego County. Subsequently, the City of San Diego established its own Local Enforcement Agency. In addition, the DEH implements a Household Hazardous Waste program for unincorporated communities in accordance with California Public Resources Code, Section 41510.

This is a request to adopt a Resolution authorizing DEH to apply for and accept funding for a Local Enforcement Agency Grant (approximately \$39,000 annually) and Household Hazardous Waste Grants (up to \$200,000 annually as available) from CalRecycle for a period of five years beginning with the Fiscal Year 2016-2017 grant cycle. The Local Enforcement Agency grant funds would acquire/replace equipment, purchase supplies and provide training and technical support. The Household Hazardous Waste grants would be used to supplement existing program elements and/or implement pilot collection programs for newly regulated waste streams. This request will also authorize the Director or Assistant Director, Department of Environmental Health, or their designee, to conduct all negotiations and submit all documents that may be necessary to apply for and accept these grants and to execute the grant agreements.

FISCAL IMPACT:

There is no fiscal impact associated with today’s actions. If approved, the Department of Environmental Health will submit grant applications of approximately \$39,000 for Local Enforcement Agency (LEA) grants and up to \$200,000 for Household Hazardous Waste (HHW) grants. If future grants are awarded, the amounts will be included in future Operational Plans based on award and grant performance periods. The funding sources are grants received by the California Department of Resources Recycling and Recovery (CalRecycle) and annual permit and solid waste tonnage fee revenue (\$5,000). There will be no change in net General Fund and no additional staff years.

A waiver of Board Policy B-29 Fees, Grants Revenue Contracts – Department Responsibility for Cost Recovery, is requested as these grants do not reimburse all costs associated with the Department of Environmental Health administrative overhead. Remaining costs of up to \$5,000 will be supported by solid waste tonnage fee revenue.

BUSINESS IMPACT STATEMENT:

N/A

**RECOMMENDATION:
CHIEF ADMINISTRATIVE OFFICER**

1. Find in accordance with Section 15061(b)(3) of the State of California Environmental Quality Act Guidelines that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and is, therefore, not subject to the California Environmental Quality Act.
2. Waive Board Policy B-29: Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery with respect to full cost recovery for the implementation of these grants.
3. Authorize the Director or Assistant Director, Department of Environmental Health, or their designee, as agent of the County to conduct all negotiations and submit all documents including, but not limited to, applications, contracts, payment requests; and to execute grant agreements upon award of grant funds, including any extensions or amendments thereof that do not materially impact or alter the grant programs or funding levels.
4. Adopt a Resolution entitled: RESOLUTION FOR CALRECYCLE GRANTS (Multi-Year Resolution).

ACTION:

ON MOTION of Supervisor Horn, seconded by Supervisor Cox, the Board took action as recommended, on Consent, adopting Resolution No. 16-027, entitled: RESOLUTION FOR CALRECYCLE GRANTS (Multi-Year Resolution).

AYES: Cox, Jacob, D. Roberts, Horn

ABSENT: R. Roberts

5. **SUBJECT: ADOPT A RESOLUTION TO APPLY FOR AND ACCEPT PROPOSITION 1, THE WATER QUALITY, SUPPLY AND INFRASTRUCTURE IMPROVEMENT ACT OF 2014, GRANT FUNDS (DISTRICTS: ALL)**

OVERVIEW:

The County of San Diego is committed to providing clean water for county residents for such uses as: safe and reliable water supply from surface and groundwater resources; agriculture; recreational uses; and watershed, ecosystem, and sensitive species protection and restoration. Multiple County departments provide services that contribute to clean water for our communities. Grant funding is a critical component of funding for the projects and services that contribute to clean water. Proposition 1, the Water Quality, Supply and Infrastructure Improvement Act of 2014, was approved by California voters on November 4, 2014. It authorized \$7.545 billion in general obligation bonds for water projects, including surface and groundwater storage, ecosystem and watershed protection and restoration and drinking water protection. A large

portion of the funds will be allocated to water projects on a statewide basis with a smaller portion (\$1.25 billion) dedicated to the South Coast Hydrologic Region, which includes all of Orange County, most of San Diego and Los Angeles counties, parts of Riverside, San Bernardino, and Ventura counties, and a small amount of Kern and Santa Barbara counties. Additional funding is dedicated to local groups, including the San Diego River Conservancy and the San Diego Integrated Regional Water Management Program.

This is a request to adopt a resolution authorizing the Departments of Public Works, Parks and Recreation, Planning & Development Services and General Services to apply for and accept Proposition 1 grant funds to offset costs to develop and implement qualifying projects. The resolution would also authorize the respective directors of these departments, or their designees, to conduct all negotiations and to execute and submit all documents that may be necessary to apply for and accept Proposition 1 grant funds.

FISCAL IMPACT:

There will be no current fiscal year impact associated with this request. If approved, funds for any grants awarded will be appropriated in future year Operational Plans or Quarterly Status adjustments.

BUSINESS IMPACT STATEMENT:

N/A

RECOMMENDATION:

CHIEF ADMINISTRATIVE OFFICER

1. Find in accordance with Sections 15061(b)(3) and 15378(b) of the California Environmental Quality Act (CEQA) Guidelines that authorizing the directors of the departments to conduct all negotiations and to execute and submit all documents that may be necessary to apply for and accept grant funds is exempt from CEQA review because it can be seen with certainty that there is no possibility the activity may have a significant effect on the environment and because the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant impact on the environment does not constitute a project under CEQA.
2. Adopt a resolution entitled: RESOLUTION OF THE SAN DIEGO COUNTY BOARD OF SUPERVISORS AUTHORIZING THE APPLICATION FOR AND ACCEPTANCE OF PROPOSITION 1 GRANT FUNDS.

ACTION:

ON MOTION of Supervisor Horn, seconded by Supervisor Cox, the Board took action as recommended, on Consent, adopting Resolution No. 16-028 entitled: RESOLUTION OF THE SAN DIEGO COUNTY BOARD OF SUPERVISORS AUTHORIZING THE APPLICATION FOR AND ACCEPTANCE OF PROPOSITION 1 GRANT FUNDS.

AYES: Cox, Jacob, D. Roberts, Horn

ABSENT: R. Roberts

6. **SUBJECT: ADMINISTRATIVE ITEM:
SECOND CONSIDERATION AND ADOPTION OF
ORDINANCE: IMPACT FEE DEFERRAL PROGRAM
PERMANENT EXTENSION (3/2/2016 – FIRST READING;
3/16/2016 – SECOND READING) (DISTRICTS: ALL)**

OVERVIEW:

On March 2, 2016 (10), the Board introduced the Ordinance for further consideration and adoption on March 16, 2016.

In 2008, the State of California approved Assembly Bill 2604, which allows local governments to defer impact fees for land development projects as opposed to collecting the fees when the building permit is issued. The intent of the legislation was to promote economic stimulus by deferring the payment and collection of impact fees.

On December 10, 2008 (14), the Board of Supervisors (Board) directed the Chief Administrative Officer to draft ordinance amendments to defer impact fees for residential tracts and commercial building permits until final inspection or certificate of occupancy. The Board directed that the impact fee deferrals include Transportation Impact Fee (TIF), Park Lands Dedication Ordinance (PLDO) Fee, drainage fees, sanitation district fees, sewer fees, as well as a sunset date for the deferral program. On March 4, 2009 (2), the Board adopted the Impact Fee Deferral Program, which included ordinance amendments to authorize a two-year deferral of certain impact fees in accordance with Assembly Bill 2604. On July 13, 2011 (7), December 4, 2013 (4), and December 16, 2015 (1) the Board authorized three separate two-year extensions of the Impact Fee Deferral Program. On December 16, 2015 (1), the Board also directed staff to return with a permanent Impact Fee Deferral Program extension.

Today's request is that the Board authorize making the Impact Fee Deferral Program permanent.

FISCAL IMPACT:

If approved, the Ordinances will result in the permanent extension for deferral of applicant payment and County collection of the Transportation Impact Fee (TIF), Park Lands Dedication Ordinance Fee, drainage fees, sewer, and sanitation district fees. This deferral will result in a loss of revenue that would otherwise be

generated by interest on the fees if they were collected earlier in the process. The previously adopted administration fee of \$170 ensures full cost recovery for additional staff time to administer the program, will remain unchanged. This administration fee will be charged for each commercial permit issued and for each grouped phase of homes for tract developments. Administration of the program will be accomplished with existing staff. Based on data from April 2009 – January 2016, customers were able to defer approximately \$5.7 million in impact fees, with an average deferral period of 138 days. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT:

Under Assembly Bill 2604, the proposed Impact Fee Deferral Program is designed to provide an economic stimulus for the region through the deferral of payment and collection of impact fees. The Building Industry Association (BIA) supports the extension of the impact fee deferral concept as a means to continue to stimulate development, job growth and the local economy.

RECOMMENDATION:

CHIEF ADMINISTRATIVE OFFICER

Acting as the San Diego County Board of Supervisors:

Consider and adopt the Ordinance entitled:

AN ORDINANCE AMENDING THE COUNTY CODE AND THE UNIFORM SEWER ORDINANCE RELATED TO THE DEFERRAL OF DEVELOPMENT IMPACT FEES.

Acting as Board of Directors of the San Diego County Flood Control District:

Consider and adopt the Ordinance entitled:

AN ORDINANCE AMENDING FLOOD CONTROL DISTRICT ORDINANCE NUMBERS 6 AND 7 TO DEFER THE PAYMENT OF SPECIAL DRAINAGE AREA FEES.

Acting as Board of Directors of the San Diego County Sanitation District:

Consider and adopt the Ordinance entitled:

AN ORDINANCE AMENDING THE UNIFORM SEWER ORDINANCE RELATED TO THE DEFERRAL OF DEVELOPMENT IMPACT FEES.

(Relates to Flood Control District Agenda No. FL1 and Sanitation District Agenda No. SA3)

ACTION:

ON MOTION of Supervisor Horn, seconded by Supervisor Cox, the Board took action as recommended, on Consent, adopting Ordinance No 10420 (N.S.), entitled: AN ORDINANCE AMENDING THE COUNTY CODE AND THE UNIFORM SEWER ORDINANCE RELATED TO THE DEFERRAL OF DEVELOPMENT IMPACT FEES.

AYES: Cox, Jacob, D. Roberts, Horn

ABSENT: R. Roberts

There being no further business, the Board adjourned at 11:37 a.m.

DAVID HALL
Clerk of the Board of Supervisors
County of San Diego, State of California

Consent: Miller

Discussion: Zurita

NOTE: This Statement of Proceedings sets forth all actions taken by the County of San Diego Board of Supervisors on the matters stated, but not necessarily the chronological sequence in which the matters were taken up.

Approved by the Board of Supervisors, on Wednesday, April 13, 2016.



RON ROBERTS
Chairman

Attest:



DAVID HALL
Clerk of the Board

03/16/16