

August 7, 2019

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, AUGUST 7, 2019, 9:00 AM
BOARD OF SUPERVISORS NORTH CHAMBER
1600 PACIFIC HIGHWAY, SAN DIEGO, CALIFORNIA

Order of Business

- A. REGULAR SESSION: Meeting was called to order at 9:01 a.m.

PRESENT: Supervisors Dianne Jacob, Chairwoman; Greg Cox, Vice-Chairman; Kristin Gaspar; Nathan Fletcher; Jim Desmond; also, Erin Demorest, Assistant Clerk of the Board of Supervisors.

- B. Closed Session Report – Closed Session was continued to Wednesday, August 7, 2019.

- C. Presentation or Announcement of Proclamations and Awards:
Vice-Chairman Greg Cox presented a proclamation declaring August 7, 2019, to be San Ysidro Health Care Day, throughout the County of San Diego.

Supervisor Nathan Fletcher presented a proclamation declaring August 7, 2019, to be ONE1Africa for National Black Business Day, throughout the County of San Diego.

- D. Public Communication: No Speakers

- E. Approval of the Statement of Proceedings/Minutes for the meeting of July 24, 2019.

ACTION:

ON MOTION of Supervisor Gaspar, seconded by Supervisor Desmond, the Board of Supervisors approved the Statement of Proceedings/Minutes for the meeting of July 24, 2019.

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

- F. Formation of Consent Calendar

- G. Discussion Items

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:
HOLD HEARING - IRON MOUNTAIN - APPROVE ACQUISITION OF APPROXIMATELY 160 ACRES OF OPEN SPACE PRESERVE LAND (POWAY IRON MOUNTAIN ESTATES, LLC) (7/10/2019 - SET HEARING; 8/7/2019 HOLD HEARING)
[FUNDING SOURCE: GRANT AWARD FROM THE STATE OF CALIFORNIA HABITAT CONSERVATION FUND, AVAILABLE PRIOR YEAR GENERAL FUND FUND BALANCE IN THE MSCP ACQUISITIONS FUND AND DEPARTMENT OF PARKS AND RECREATION GENERAL PURPOSE REVENUE AND WOULD BE INCLUDED IN FUTURE OPERATIONAL PLANS]
(4 VOTES) |
| 2. | EXTENSION OF PERFORMANCE COMPLETION DATES ON VARIOUS BONDED AGREEMENTS TO COMPLETE SUBDIVISION IMPROVEMENTS |
| 3. | SET A HEARING FOR 09/11/2019:
GENERAL SERVICES - PURCHASE OF AGRICULTURAL CONSERVATION EASEMENT (PACE) PROGRAM - ACQUISITION OF TWO AGRICULTURAL CONSERVATION EASEMENTS (8/7/19 - SET HEARING; 9/11/19 - HOLD HEARING)
[FUNDING SOURCE: FISCAL YEAR 2019-20 PACE PROGRAM AVAILABLE FUND BALANCE] |
| 4. | ACCEPTANCE OF REAL PROPERTY AND PUBLIC PARK FACILITIES DEDICATIONS FOR SIX RESIDENTIAL SUBDIVISIONS AND AUTHORITY FOR EXECUTION OF PARK ACQUISITION AND IMPROVEMENT AGREEMENTS FOR FOUR RESIDENTIAL SUBDIVISIONS |
| 5. | AUTHORIZATION TO ADVERTISE AND AWARD A CONSTRUCTION CONTRACT FOR LINDO LAKE PHOTOVOLTAIC CARPORTS
[FUNDING SOURCE: AVAILABLE PRIOR YEAR GENERAL FUND FUND BALANCE] |
| 6. | NOTICED PUBLIC HEARING:
SMALL CELL WIRELESS FACILITIES - ZONING ORDINANCE UPDATE (POD-19-003)
[FUNDING SOURCE: FEES PAID BY APPLICANTS] |
| 7. | CLOSED SESSION (CARRYOVER FROM 08/06/19 AGENDA NO. 22 AND OFF-AGENDA CONSIDERATION) |

**1. SUBJECT: NOTICED PUBLIC HEARING:
HOLD HEARING - IRON MOUNTAIN - APPROVE ACQUISITION OF
APPROXIMATELY 160 ACRES OF OPEN SPACE PRESERVE LAND
(POWAY IRON MOUNTAIN ESTATES, LLC) (7/10/2019 - SET
HEARING; 8/7/2019 HOLD HEARING) (DISTRICT: 2)**

OVERVIEW

On July 10, 2019 (05), the Board of Supervisors set a hearing for August 7, 2019.

The Multiple Species Conservation Program (MSCP) is a regional conservation program initiated in 1998 to balance protection of habitat with recreation, development, and agricultural activities. The MSCP is comprised of three major plan areas in the County: the South County approved plan and North and East County draft plans. Since 1998 through 2018, the County of San Diego (County) has acquired more than 22,000 acres of open space land for the MSCP in the three areas.

The County Department of Parks and Recreation (DPR) identified an approximately 160-acre property (Property) adjacent to existing preserved land surrounding Iron Mountain east of State Route 67 near Poway Road. In March 2016, the County was awarded \$200,000 in grant funding from the California Department of Parks and Recreation Habitat Conservation Fund (HCF) in the Rare, Endangered, Threatened or Fully-Protected Species category to purchase the Property in recognition of the habitat it provides for numerous threatened species. The County has an Option Agreement that expires on September 5, 2019. Per the Option Agreement, the seller, Poway Iron Mountain Estates, LLC, has agreed to sell the Property at the appraised value of \$1,280,000. DPR will enter into a memorandum of agreement with the City of Poway to manage the Property for the County.

Today's request requires two steps. On July 10, 2019, it is requested that the Board of Supervisors (Board) set a hearing for August 7, 2019 and provide public notice of the hearing. If the Board takes the actions recommended for July 10, 2019, then on August 7, 2019, after making the necessary findings, the Board is requested to approve the acquisition of Assessor's Parcel Numbers 322-021-04 and 322-021-05 from Poway Iron Mountain Estates, LLC for the appraised value of \$1,280,000. The total one-time County cost, including property acquisition, staff time, and initial stewardship, is \$1,492,000 in Fiscal Year 2019-20, based on available prior year General Fund fund balance budgeted in the MSCP Acquisitions Fund. The Board is also requested to authorize the Director, DPR, to approve a Memorandum of Agreement with the City of Poway for the City to manage the Property.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find that the proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15301, 15302, 15304, 15313 and 15325.
2. Establish appropriations of \$200,000 in the Multiple Species Conservation Program Acquisitions Fund for the acquisition of 160-acres of land for Open Space, based upon a grant award from the State of California Habitat Conservation Fund. **(4 VOTES)**
3. Authorize the Director, Department of General Services, to exercise the option to purchase Assessor's Parcel Numbers 322-021-04 and 322-021-05 from Poway Iron Mountain Estates, LLC at the appraised value of \$1,280,000.

4. Authorize the Director, Department of General Services to execute all escrow and related documents necessary to complete the purchase.
5. Authorize the Director, Department of Parks and Recreation, to execute a memorandum of agreement with the City of Poway for the City's management of the Property and to take any actions necessary to administer the agreement.

FISCAL IMPACT

Funds for this request are included in the Fiscal Year 2019-20 Operational Plan in the Multiple Species Conservation Program (MSCP) Acquisitions Fund and the Department of Parks and Recreation. This request will result in current year one-time costs of \$1,492,000 itemized as follows: \$1,280,000 for property acquisition; \$67,000 for appraisal and staff time to complete the transaction; \$3,000 for closing and title costs; and \$142,000 in one-time land protection costs, including the preparation of a Resource Management Plan and associated biological, cultural surveys, Vegetation Management Plan (\$134,500), and initial stewardship that includes access control and signage (\$7,500). The funding sources are a grant award from the State of California Habitat Conservation Fund (\$200,000) and available prior year General Fund fund balance in the MSCP Acquisitions Fund (\$1,292,000).

Total costs for land monitoring and adaptive management are estimated at \$4,500 annually and fixed charge assessments are estimated at \$10 per year. If approved, total annual costs, estimated at \$4,510 will be incurred beginning in Fiscal Year 2019-20 and will be funded by Department of Parks and Recreation General Purpose Revenue. There will be no change in net General Fund cost and no additional staff years.

If approved, the County will enter into a Memorandum of Agreement with the City of Poway for management of the Property, excluding habitat monitoring activities required by the MSCP which will be managed by the County. If Poway should ever cease to manage the Property, the County's estimated annual costs would increase by \$16,500 for ongoing operations and maintenance, for a total of \$21,010. The funding source would be Department of Parks and Recreation General Purpose Revenue and would be included in future Operational Plans.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Gaspar, seconded by Supervisor Fletcher, the Board of Supervisors closed the hearing and took action as recommended, on Consent.

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

2. **SUBJECT: EXTENSION OF PERFORMANCE COMPLETION DATES ON VARIOUS BONDED AGREEMENTS TO COMPLETE SUBDIVISION IMPROVEMENTS (DISTRICT: 5)**

OVERVIEW

The San Diego County Code of Regulatory Ordinances (County Code) establishes the requirements for time extensions for completion of required improvements on major private development subdivisions. Subdivision developers, as conditions of their permits, are often

required to construct specific improvements, such as roads and storm drainage systems, to benefit the public. In many cases, these improvements are accepted into the County-maintained system to be owned, operated, and maintained by the County of San Diego's (County) Department of Public Works in perpetuity. Subdivision Improvement Agreements and their bonding requirements protect the County by ensuring any required improvements are constructed for approved and mapped subdivisions. In the event of a default by the applicant, this bonding can be used to finance completion of the required improvements. However, under certain circumstances, the County is able to grant a time extension that allows the applicant time to complete construction while preserving the County's rights to have the public improvements constructed by the developer.

This is a request for the Board of Supervisors (Board) to approve two-year extensions of performance completion dates for the following subdivisions in District 5:

1. TM 5365-1, Harmony Grove Village Unit 1, located in the Escondido area. This project has 71 single family residential lots, 1 non-residential lot, 1 fire station lot, 1 wastewater treatment/water reclamation lot, 7 property owner association (POA) lots, 18 private road lots, 2 open space lots, and the overall acreage is 84.4 acres.
2. TM 5365-4, Harmony Grove Village Unit 4, located in the Escondido area. This project has two non-residential lots and the overall area is 36.8 acres.
3. TM 5365-6, Harmony Grove Village Unit 6, located in the Escondido area. This project has 52 single family residential lots, 1 condominium lot, 2 open space lots, 18 POA lots, and the overall area is 51.1 acres.
4. TM 5365-7, Harmony Grove Village Unit 7, located in the Escondido area. This project has 105 single family residential lots, 4 condominium lots, 3 open space lots (including 1 open space lot that is a detention basin), 6 POA lots, 6 private road lots, and the overall area is 40.6 acres.

Staff has determined the two-year extensions to complete improvements are warranted due to ongoing construction activities, requests from the developers to extend the time for completion, and the County's interest in receiving the improvements. Therefore, staff is recommending the County accept the delayed completion of the public improvements. Staff has also determined that there is adequate improvement security (i.e., capacity through a bond or other financial instrument) for each of the subdivision maps to guarantee completion of remaining work for each agreement recommended for extension, should that become necessary in the future.

Today's request is for the Board to approve the extension of the performance completion dates in subdivision agreements for developments referenced by Tentative Map No. 5365-1, Tentative Map No. 5365-4, Tentative Map No. 5365-6, and Tentative Map No. 5365-7 to August 7, 2021.

RECOMMENDATION(S)
CHIEF ADMINISTRATIVE OFFICER

1. Find, in accordance with Section 15060(c)(3) of the California Environmental Quality Act (CEQA) Guidelines that extension of the performance completion dates in subdivision agreements to complete subdivision improvements is not a "project" as defined in Section 15378 of the state CEQA Guidelines.

2. Extend, to August 7, 2021, the performance completion dates in subdivision agreements for developments referenced by Tentative Map No. 5365-1, Tentative Map No. 5365-4, Tentative Map No. 5365-6, and Tentative Map No. 5365-7.

FISCAL IMPACT

There is no fiscal impact associated with these recommendations. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Gaspar, seconded by Supervisor Fletcher, the Board of Supervisors took action as recommended, on Consent.

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

3. **SUBJECT: SET A HEARING FOR 09/11/2019:
GENERAL SERVICES - PURCHASE OF AGRICULTURAL
CONSERVATION EASEMENT (PACE) PROGRAM - ACQUISITION OF
TWO AGRICULTURAL CONSERVATION EASEMENTS (8/7/19 - SET
HEARING; 9/11/19 - HOLD HEARING) (DISTRICTS: 2 AND 5)**

OVERVIEW

On December 4, 2013 (3), the Board of Supervisors (Board) implemented the Purchase of Agricultural Conservation Easement (PACE) Program as an ongoing County of San Diego (County) program and established continuous funding for PACE Program land acquisitions through an annual General Fund appropriation. On September 17, 2014 (1), the Board expanded the PACE Program to include a mitigation component for the sale of agricultural mitigation credits. The PACE Program application process is periodically opened at least once a year to interested property owners. and the program receives an annual funding allocation of up to \$1,500,000. The PACE Program has received a total of \$11.21 million to fund program preparation, administration, and acquisitions since 2011. To date, the PACE Program has acquired agricultural conservation easements over 2,034.98 acres at a total cost of \$5.84 million.

The Department of Planning & Development Services (PDS) staff received signed "willing seller" letters from two agricultural conservation easement property owners. Each of these easements exceeds \$250,000, requiring Board approval prior to acquisition. The first property (Assessor Parcel Numbers [APN] 109-411-15, -19, 109-412-01, -02 and -03) is located northeast of Rainbow Road and Mt. Olympus Valley Road in Fallbrook and is approximately 143.41 acres in size with an appraised easement value of \$305,000 (Attachment A). The second property (APN 510-103-01) is located east of Harbison Canyon Road and north of Dehesa Road in an unincorporated area near El Cajon and is approximately 154.84 acres in size with an appraised easement value of \$381,000 (Attachment B). If acquired, the two agricultural conservation easements would add 298.25 acres to the PACE Program for Fiscal Year 2019-20 and increase the total agricultural acreage conserved under the PACE Program to 2,333.21 acres.

Today's request requires two steps. On August 7, 2019, the Board is requested to set a hearing for September 11, 2019, to consider the purchase of the two agricultural conservation easements and direct the Clerk of the Board of Supervisors to provide public notice of the hearing. If the Board takes the actions recommended on August 7, 2019, then on September 11, 2019, after making the necessary findings, the Board is requested to authorize the purchase of the agricultural conservation easements over the above referenced properties for a total estimated cost of \$690,000 including closing and title costs, based on PACE Program available fund balance in PDS. Today's Board action supports implementation of Measure T-1.2 of the County's Climate Action Plan, which established a goal of acquiring 443 acres of agricultural conservation easements per year. By acquiring land for agricultural preservation, today's action would reduce potential greenhouse gas emissions by preserving land that could otherwise be developed.

RECOMMENDATION(S)
CHIEF ADMINISTRATIVE OFFICER

On August 7, 2019:

1. Set a hearing for September 11, 2019, at which time the Board of Supervisors may consider approval of the purchase of an agricultural conservation easement over Assessor's Parcel Numbers (APNs) 109-411-15, -19, 109-412-01, -02, and -03 from the Ralph and Samee Foster 2001 Revocable Trust and APN 510-103-01 from Allen K. Trial.
2. Direct the Clerk of the Board of Supervisors to provide notice of the September 11, 2019 hearing via publication and posting in accordance with California Government Code Sections 25350 and 6063.

If on August 7, 2019, the Board takes the actions recommended in Items 1-2 above, then on September 11, 2019:

1. Find that the proposed project is categorically exempt from the California Environment Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15325 as it involves the transfer of ownership of land to allow continued agricultural use and preserve existing natural conditions.
2. Authorize the Director, Department of General Services, or a designee, to execute the Real Property Contract for the purchase of an agricultural conservation easement over APNs 109-411-15, -19, 109-412-01, -02, and -03 from Ralph and Samee Foster 2001 Revocable Trust for the appraised value of \$305,000.
3. Authorize the Director, Department of General Services, or a designee, to execute the Real Property Contract for the purchase of an agricultural conservation easement over APN 510-103-01 from Allen K. Trial for the appraised value of \$381,000.
4. Authorize the Director, Department of General Services, or a designee, to execute all escrow and other related documents necessary to complete the purchase of agricultural conservation easements over APNs 109-411-15, -19, 109-412-01, -02, -03, and 510-103-01.

FISCAL IMPACT

Funds for this request are included in the Fiscal Year 2019-20 Operational Plan for Planning & Development Services. If approved, this request will result in estimated costs of \$690,000 for the two agricultural conservation easements totaling \$686,000 for property acquisition and \$4,000 for closing and title costs. The funding source is Fiscal Year 2019-20 PACE Program available

fund balance. After acquiring the two agricultural conservation easements, \$4.69 million will remain in the PACE Program fund balance. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Gaspar, seconded by Supervisor Fletcher, the Board of Supervisors took action as recommended, on Consent, setting a Hearing for September 11, 2019.

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

4. **SUBJECT: ACCEPTANCE OF REAL PROPERTY AND PUBLIC PARK FACILITIES DEDICATIONS FOR SIX RESIDENTIAL SUBDIVISIONS AND AUTHORITY FOR EXECUTION OF PARK ACQUISITION AND IMPROVEMENT AGREEMENTS FOR FOUR RESIDENTIAL SUBDIVISIONS (DISTRICTS: 2 & 5)**

OVERVIEW

The Department of Parks and Recreation provides recreational amenities for residents and visitors of San Diego county. The County of San Diego's (County) General Plan recognizes the importance of parks by including a goal to provide 15 acres of regional parks and 10 acres of local parks per 1,000 residents. To help meet the General Plan goal, the Park Lands Dedication Ordinance (PLDO) may require a new residential subdivision to dedicate public parks for their new residents.

In recent years residential construction has been increasing, as have the number of private developer-constructed public parks. To formalize park requirements, the developer and the County enter into a Park Acquisition and Improvement Agreement which specifies the recreational amenities to be constructed and the timing of construction completion. This agreement also requires the developer to convey fee title to the County once park construction is complete so the new facility can enter the County's park inventory and be maintained. The Board's authority is required for the execution of these park agreements and acceptance of this park land.

Today's requests seek authority for the Director, Department of General Services, to accept new private developer-constructed public parks for six residential subdivisions with approved tentative maps, and authority for the Director, Parks and Recreation to execute Park Acquisition and Improvement Agreements for four of those same residential subdivision projects.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find that the environmental documents on file for Harmony Grove Village Vesting Tentative Map No. (VTM) 5365RPL2 (SCH 2004071004; 02/07/2007), Horse Creek Ridge (Formerly Campus Park) VTM 5338RPL7 (SCH 2005011092; 05/11/2011), Tentative Map for Hillside Meadows (TM 5203RPL) (SCH 98041146; 11/13/2002), Meadowood VTM 5354RPL4 (SCH 2004051028; 01/11/2012), and Sweetwater Place TM 5588 (SCH 2015091038; 12/06/2017) on file with Planning & Development Services were adopted in compliance with

the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines and that the Board of Supervisors has reviewed and considered the information therein prior to approving the project.

Find 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 adopted/certified environmental documents, that there is no increase in severity of previously identified significant effects, and that no new information of substantial importance has become available since the environmental documents were adopted/certified as explained in the CEQA consistency memorandums, dated August 7, 2019, for Hillside Meadows TM 5203 (Attachment B), Meadowood VTM 5354RPL4 (Attachment C), Sweetwater Place TM 5588 (Attachment D), Harmony Grove Village Vesting Tentative Map No. (VTM) 5365RPL2 (Attachment E), and Horse Creek Ridge (Formerly Campus Park) VTM 5338RPL7 (Attachment F).

2. Adopt the Environmental Findings for Park Circle TM 5603, which includes a finding that the project is exempt from further environmental review pursuant to State CEQA Guidelines Section 15183, dated August 7, 2019 (Attachment G).
3. Authorize the Director, Department of General Services, or designee, to accept the real property interests identified as Assessor Parcel Numbers 235-571-20, 235-572-05, and-07 (Harmony Grove Village), Assessor Parcel Numbers 108-500-71 and 108-502-03 (Horse Creek Ridge), a portion of Assessor Parcel Number 379-024-23 (Hillside Meadows), a portion of Assessor Parcel Numbers 125-061-04 and 125-062-07 (Meadowood), a portion of Assessor Parcel Number 505-231-36 (Sweetwater Place), and a portion of Assessor Parcel Numbers 186-240-12 and 186-240-15 (Park Circle) and execute all related documents necessary to complete the public park dedication process for Harmony Grove Village Vesting Tentative Map No. (VTM) 5365RPL2, Horse Creek Ridge (Formerly Campus Park) VTM 5338RPL7, Hillside Meadows TM 5203, Meadowood VTM 5354RPL4, Sweetwater Place TM 5588, and Park Circle TM 5603.
4. Authorize the Director, Department of Parks and Recreation, or designee, to execute park acquisition and improvement agreements with the developers of Hillside Meadows TM 5203, Meadowood VTM 5354RPL4, Sweetwater Place TM 5588, and Park Circle TM 5603 to provide for park facility construction, interim funding, and maintenance for Park Facilities and to take any future actions to administer these agreements.

FISCAL IMPACT

There is no fiscal impact associated with these recommendations. There will be no change in net General Fund cost and no additional staff years. Each of the six subdivisions considered in this Board action is within an approved Community Facilities District (CFD), which provides funding to operate and maintain each of the public park facilities that will be dedicated to the County through the levy of special taxes on properties within the CFD.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Gaspar, seconded by Supervisor Fletcher, the Board of Supervisors took action as recommended, on Consent.

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

5. **SUBJECT: AUTHORIZATION TO ADVERTISE AND AWARD A CONSTRUCTION CONTRACT FOR LINDO LAKE PHOTOVOLTAIC CARPORTS (DISTRICT: 2)**

OVERVIEW

Lindo Lake County Park is a 55-acre park located on Vine Street in the community of Lakeside. The park features the Lakeside Community Center, Lakeside Teen Center, playgrounds, a large group picnic shelter, barbeque and picnic areas, a ball field, outdoor fitness stations, tennis courts, a historic boathouse, a skate park, and walking trails around Lindo Lake. The Department of Parks and Recreation (DPR) offers many recreational programs that promote wellness, community strength, safety, and recreation.

With its extensive infrastructure and daily programming, Lindo Lake Park is one of the DPR's highest energy using parks. The Lindo Lake Photovoltaic project proposes to construct four free-standing carport structures with photovoltaic panel roofs in the existing northwest parking lot of the Lakeside Community Center and the Lakeside Teen Center. The electricity generated from this project, along with the other existing photovoltaic systems within the park, is expected to meet or exceed the electrical consumption of the community center and teen center. This project also includes the installation of drought-tolerant and low-maintenance planting, supported by a water-conserving irrigation system, along the corner of Vine Street and Lakeshore Drive to beautify and stabilize the slopes which frame this prominent view of Lindo Lake County Park.

The Fiscal Year 2019-20 Adopted Operational Plan included \$1,000,000 for Capital Improvement Project 1021907, Lindo Lake Photovoltaic. Today's request will authorize the Director, Department of Purchasing and Contracting, to advertise and award a construction contract estimated at \$851,000, including contingency for this project. Remaining project funds of \$149,000 are being used for related project costs including design, construction inspection, construction management and project administration. If approved, construction will begin in fall 2019 and be complete in summer 2020.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find that the Lindo Lake Photovoltaic project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines sections 15303, 15304 and 15311.
2. Authorize the Director, Department of Purchasing and Contracting, to advertise and award a construction contract and take any other action authorized by Section 401 et seq. of the Administrative Code with respect to contracting for the construction of the Lindo Lake Photovoltaic project.

3. Designate the Director, Department of Parks and Recreation, or designee, as the County Officer responsible for administering the construction contract for the Lindo Lake Photovoltaic project in accordance with Board Policy F-41, Public Works Construction Projects.

FISCAL IMPACT

Funds for this request are included in the Fiscal Year 2019-20 Operational Plan in the Capital Outlay Fund. If approved, this request will result in costs of \$1,000,000 for Capital Project 1021907 Lindo Lake Photovoltaic. Construction costs are estimated at \$851,000 including contingency. Remaining funds of \$149,000 will be used for related project expenses including design, inspection, construction management, and project administration. The funding source is available prior year General Fund fund balance. There will be no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Gaspar, seconded by Supervisor Fletcher, the Board of Supervisors took action as recommended, on Consent.

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

6. **SUBJECT: NOTICED PUBLIC HEARING:
SMALL CELL WIRELESS FACILITIES - ZONING ORDINANCE
UPDATE (POD-19-003) (DISTRICTS: ALL)**

OVERVIEW

This is a request for the County of San Diego Board of Supervisors (Board) to consider and adopt amendments to the Zoning Ordinance for Small Cell Wireless Facilities (Amendments).

In September 2018, the Federal Communication Commission (FCC) issued the Declaratory Ruling and Third Report and Order 18-133 (FCC Order), that limits a local jurisdiction's ability to regulate the placement of Small Cell Wireless Facilities (SCWs) and establishes maximum permit fees and permit processing timelines of 60 to 90 days. The FCC Order became effective on January 14, 2019. On February 27, 2019 (2) the Board amended the Zoning Ordinance to comply with the FCC Order. At that hearing, staff was directed to return to the Board within 180 days with additional requirements to reduce cluttering, avoid certain sites, encourage co-locating SCWs within existing infrastructure, establish distance requirements between poles, limit the placement of equipment on poles, establish preferred locations, require undergrounding of equipment, and require additional public noticing.

County staff has conducted additional outreach to stakeholders and Community Planning and Sponsor Groups, evaluated other jurisdictions' SCW ordinances, met with wireless industry representatives and evaluated SCW operational characteristics, and developed additional requirements for SCWs within the unincorporated county. The proposed Amendments contain several modifications to the Wireless Telecommunications Facilities section of the Zoning Ordinance to address the Board's direction. Options to the proposed Amendments are included for the Board's consideration.

On July 19, 2019, the Planning Commission considered the proposed Amendments and recommended the Board adopt the staff recommendation, with six modifications. Staff concurs with three modifications made by the Planning Commission: comply with maximum permissible exposure requirements for radiofrequency (RF) emissions set by the FCC; submit an annual RF report by each carrier; and require signs with SCWs warning of RF emissions. Staff does not concur with the following recommendations made by the Planning Commission: require SCWs in the public right-of-way to have a 100-foot setback from all residential buildings; reduce the proposed setback of SCWs within the public right-of-way from 1,000 feet from the property line to 100 feet from the nearest building for sites containing schools, religious facilities, daycare centers, and hospitals; and require wireless carriers to submit master plans for placement of SCWs.

RECOMMENDATION(S)
PLANNING COMMISSION

On July 19, 2019, the County of San Diego's Planning Commission considered the proposed amendments to the Zoning Ordinance for Small Cell Wireless Facilities (Amendments); and information contained in the Final Program Environmental Impact Report (EIR), dated August 3, 2011; the Addendum, dated January 30, 2019; and the Environmental Review Update Checklist Form dated January 30, 2019. The Planning Commission made the following recommendations to the Board of Supervisors (Board):

1. Find that it reviewed and considered the information contained in the Final Program EIR, dated August 3, 2011, on file with Planning & Development Services (PDS) as Environmental Review Number 02-ZA-001, the Addendum thereto, dated January 30, 2019, on file with PDS as PDS2017-POD-17-004, and the Environmental Review Update Checklist Form, dated January 30, 2019, on file with PDS as Environmental Review Number PDS2017-POD-17-004, prior to making its recommendation on the Amendments.
2. Adopt the attached Form of Ordinance: AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO SMALL CELL WIRELESS FACILITIES (POD 19-003) (Attachments A-1 and A-2, on file with the Clerk of the Board).

DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES

Planning & Development Services concurs with Recommendation 1 of the Planning Commission and recommends that the Board take the following action:

Adopt the attached Form of Ordinance: AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO SMALL CELL WIRELESS FACILITIES (POD 19-003) (Attachments B-1 and B-2, on file with the Clerk of the Board).

FISCAL IMPACT

There is no fiscal impact associated with today's requested actions. There will be no change in net General Fund costs and no additional staff years in Fiscal Year (FY) 2019-2020.

Funds for the establishment of a ministerial process for Small Cell Wireless Facilities permits, including a new inspection deposit and annual fee consistent with the September 26, 2018 FCC Small Cell Wireless Report and Order (FCC-18-133) were adopted as part of the actions by the Board on February 27, 2019 (2). The funding source is fees paid by applicants. Actual costs will be monitored and included in future fee updates.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Jacob, seconded by Supervisor Fletcher, the Board of Supervisors closed the hearing and took the following action:

1. Adopted Ordinance No. 10622 (N.S.), entitled: AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO SMALL CELL WIRELESS FACILITIES (POD 19-003);
2. Adopted the recommendations of the Department of Planning & Development Services which concurs with recommendation #1 of the Planning Commission related to the Final Program EIR, with the following modifications to the implementation options (matrix): Condition 1.2 (Site Avoidance): Adopt Option 2, to modify the proposed amendments to establish a 300-foot buffer from avoidable sites and include fire stations and sheriff stations to the site list.
3. Directed the Chief Administrative Officer and the Office of Strategy & Intergovernmental Affairs to continue their strong advocacy in support of the two bills previously mentioned (HR 530 and S. 2012) by sending a new letter to our Federal legislative delegation restating our support for these bills and to express our continued opposition to the FCC's take of the land use authority of local governments.
4. Directed the Chief Administrative Officer to prepare a letter for the Chair's signature to the FCC to express concerns about 5G and the potential health impacts as mentioned in the public testimony and inquire about what type of analysis the FCC utilizes when approving regulations for small cell wireless facilities and 5G as it relates to health and safety and proximity to residents.
5. Directed staff to explore and investigate the concept and return to the Board regarding establishing master license agreements with carriers and explore the ability to identify coverage gaps.
6. Directed staff to make the minor correction to Section 6992.A.8 of the ordinance, as noted in the staff presentation, which incorrectly references location preferences and will be corrected to reference the configuration preferences.

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

7. **SUBJECT: CLOSED SESSION (CARRYOVER FROM 08/06/19 AGENDA NO. 22 AND OFF-AGENDA CONSIDERATION) (DISTRICTS: ALL)**

OVERVIEW

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph 2 of subdivision (d) of Government Code section 54956.9: (Number of Potential Cases - 1)

B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Paragraph (1) of subdivision (d) of Section 54956.9)

- B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Cleveland National Forest Foundation, et al. v. County of San Diego, et al.;
California Court of Appeal, Fourth Appellate District, No. D073744
- C. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Tonino Russo v. County of San Diego, et al.; United States District Court,
Southern District, No. 18-CV-187-MMA-MDD
- D. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Melissa Jeffries v. County of San Diego, et al.; San Diego County Superior
Court No. 37-2017-00040650-CU-PA-CTL
- E. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
David Collins v. County of San Diego, et al.; San Diego County Superior
Court No. 37-2017-00028981-CU-PN-CTL
- F. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Hugh Pham, et al. v. Office of the District Attorney; Orange County Superior
Court No. 30-2019-01085925-CU-MC-CJC
- G. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
City of Chula Vista, et al. v. Tracy Sandoval, et al.; California Court of Appeal,
Third Appellate District, No. C080711
- H. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph 2 of subdivision (d) of
Government Code section 54956.9: (Number of Potential Cases - 1)
- I. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Initiation of litigation pursuant to paragraph 4 of subdivision (d) of
Government Code section 54956.9: (Number of Cases - 1)

ACTION 7.1:

ON MOTION of Supervisor Cox, seconded by Supervisor Gaspar, the Board of Supervisors found that the need to take action arose subsequent to the Agenda being posted; adopted appropriate findings and placed the following item on the agenda:

- J. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Julian-Cuyamaca Fire Protection District, et al. v. San Diego County Local
Agency Formation Commission, et al.; San Diego County Superior Court
No. 37-2019-0001\$076-CU-MC-CTL

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

ACTION 7.2:

Item 22B: CNFF, et al. v. County of San Diego, et al, by a vote of three Board members voting “Aye”, with Supervisors Cox and Gaspar absent, authorize the County’s outside counsel to file a request for rehearing with the California Court of Appeal and if that request fails, a petition for review with the California Supreme Court, in this case alleging that the approval of a housing subdivision violated the Subdivision Map Act.

Item 22I: Initiation of Litigation – Amicus Brief in Martin v. City of Boise, by a vote of three Board members voting “Aye”, with Supervisors Cox and Gaspar absent, authorize County Counsel to join an amicus briefing supporting the City of Boise’s petition for a writ of certiorari in the United States Supreme Court in this lawsuit challenging the City’s prohibition on sleeping outside on public property.

There being no further business, the Board adjourned at 12:43 p.m. in memory of George S. Mitrovich, John Ciccarelli, Yaroslav Katkov, Jack Clifford, Patty Davis, Michel Jean Bernard Dedina, and William J. Winters.

ANDREW POTTER
Clerk of the Board of Supervisors
County of San Diego, State of California

Consent: Santiago
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 September 11, 2019.



DIANNE JACOB
Chairwoman

Attest:



ANDREW POTTER
Clerk of the Board

08/07/19