

RECEIVED

JUL 17 2008

BUT NOT FILED



**COUNCIL PRESIDENT
SCOTT H. PETERS**

CITY OF SAN DIEGO

July 14, 2008

RECEIVED

JUL 21 2008

SAN DIEGO
COUNTY GRAND JURY

Honorable Kenneth So
Presiding Judge
San Diego County Superior Court
Main Courthouse, Third Floor
220 West Broadway
San Diego, CA 92101

Re: Grand Jury Report entitled "San Diego Development Services Department:
Professionals in a Maze."

Dear Judge So:

Pursuant to the California Penal Code Section 933.05 (a), (b) and (c), the San Diego City Council has provided the attached responses to the Grand Jury's report dated April 16, 2008.

In summary, on July 7, 2008, the City Council voted to approve the recommendations contained in Independent Budget Analyst Report Number 08-68 dated June 25, 2008 except that the Council will respond separately from the Mayor to recommendation 08-31 regarding formalized training in the Development Services Department.

A summary of the Council's response to the Grand Jury Report is attached along with the Independent Budget Analyst Report, the Mayor's response, and the resolution adopted by the City Council approving their response.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott H. Peters".

Scott H. Peters

SHP/cmc
Attachments

cc: Honorable Mayor
Councilmembers
Independent Budget Analyst



City Council Approved Responses to the Grand Jury Report “San Diego Development Services Department: Professionals in a Maze”

On July 7, 2008 the City Council approved the following responses to the April 16, 2008 County Grand Jury report titled “San Diego Development Services Department: Professionals in a Maze.” The City Council approved the following change from the initial draft response developed by the Mayor’s Office and the Office of the Independent Budget Analyst:

- For Recommendation 08-31, respond independently of the Mayor and include a statement that the City Council is aware of the funding challenges the department faces in regards to training of staff. In addition, the City Council will continue to monitor the performance results and funding available for training through the City’s Annual budget process.

It should be noted that for recommendations 08-33 and 08-34, the City Council has chosen to respond independently of the Mayor. The suggested responses to these recommendations were provided to the City Council as part of the initial draft response document (Independent Budget Analyst Report #08-68).

Discussion 1: The Development Services Department

Findings (Mayor and City Council):

***Finding:** We found the DSD personnel to be knowledgeable, forthcoming, and helpful.*

Response: The respondent agrees with the finding.

***Finding:** Training is conducted informally on the job with no formal process prescribed.*

Response: The respondent wholly disagrees with this finding. DSD staff workgroups that require formalized training have established plans for their employees. Many employees are college educated professionals in development, design, and planning related fields with knowledge specific to the plan review functions. Others are registered professionals certified in their areas of expertise by the state.

The department also has established performance measures that include a goal of four hours of training per month per employee. Department work hours were modified over four years ago to provide adequate time for staff working public counters to achieve their training performance goals. During Fiscal Years 2005 and 2006, the Department met or exceeded their training goals. Due to reduction in staffing and decreased workloads in Fiscal Years 2007 and 2008, the Department has met their training performance measure 50% of the time.

Recommendations (Mayor and City Council):

**City Council Approved Responses to the Grand Jury Report “San Diego
Development Services Department: Professionals in a Maze”**

08-28: Rewrite the Land Development Code to make it shorter, user friendly, better organized, and cross referenced for ease of use.

Response: The recommendation will not be implemented. The City’s regulations for development have evolved over many years and have to address the varying land uses and challenges that face a city as large and diverse as San Diego.

The Land Development Code (LDC), adopted by the City Council in 1997 and made effective January 1, 2000 following California Coastal Commission certification, was a complete overhaul of the City’s Municipal Codes affecting land development. This extensive update was done through a deliberate and public process involving more than 300 public meetings. The update’s goals were to simplify regulations, to make them clearer, to make project outcomes more predicable, and to make regulations understandable. A City Council appointed Citizen’s Advisory Committee (CAC) directed the staff update and provided guidance on all aspects of the effort. Following adoption of the LDC, the CAC was maintained to help provide guidance on all updates to the code. Four citizens from the original CAC still voluntarily participate in the current advisory committee referred to as the Code Monitoring Team.

The City’s Land Development Code received the League of California Cities 2001 Helen Putnam Award for excellence in City Government.

The City intends to continue its efforts to improve regulations as part of the ongoing community plan update process. As community plans are updated, regulations will be revised to clearly implement adopted land use polices in the most straightforward way possible. Community plans are scheduled to be updated on a constant cycle over a 20 year period.

08-29: Make up-to-date version of the Land Development Code more accessible to citizens.

Response: The recommendation will not be implemented. The Land Development Code is available on the City of San Diego website and can easily be electronically searched for any term or subject using the freely available Adobe Acrobat software. The City generally makes new regulations available on its website within one month of the effective date of new regulations.

The Mayor’s Business Process Reengineering (BPR) effort for Development Services recommends changes that will further improve the timeliness and accuracy of publication of the current code and future updates. The City Council must approve the recommendations before these changes can be implemented. It is anticipated the DSD’s BPR will be heard early in fiscal year 2009.

08-30: Reconfigure the funding for the DSD to cap periods of high personnel needs and to put a floor under their funding during periods of low numbers of applications.

City Council Approved Responses to the Grand Jury Report “San Diego Development Services Department: Professionals in a Maze”

Response: The recommendation requires further analysis. DSD is currently going through a pre-competition analysis to determine the best method to deal with changing workloads including both surge and decline scenarios. It is anticipated that pre-competition recommendations will be completed early in Fiscal Year 2009. Additionally, the Mayor’s BPR effort for DSD recommends that strategies are put into place to address changing workloads. It is likewise anticipated that City Council will consider these recommendations for approval early in Fiscal Year 2009.

08-31: Institute formalized training in DSD.

Response: This recommendation has been implemented before this Grand Jury was seated. The City Council is aware that the Development Services Department has implemented a training program that includes performance measures to track the amount of training provided to staff on an annual basis. However, the City Council is also aware that meeting the department’s training needs in the past two fiscal years has been a challenge due to budgetary constraints. The City Council has raised this issue during budget discussions and will continue to monitor the performance results and funding available for training through the City’s Annual budget process.

Discussion 2: Six Minor Development Projects Under Consideration in the City of San Diego

Recommendations (San Diego City Council):

08-33: Demand complete and accurate EIRs and MNDs with full disclosures.

Response: This recommendation has been implemented. The City Council requires staff to provide accurate and complete environmental documents that contain full disclosures for projects that are to be heard before Council. Items that are to be heard by the City Council are required to follow the City’s standard docketing procedures.

08-34: Insist on firm, clear answers to their questions at the time they are asked or at the next City Council meeting.

Response: This recommendation has been implemented and continues to be implemented at every Council meeting. The City Council expects staff to provide clear and accurate responses to all questions. If staff is not able to answer a question during a City Council hearing, staff is expected to respond expeditiously in writing to the question.

Discussion 3: Sunroad Centrum 12

Finding (Mayor and City Council)

**City Council Approved Responses to the Grand Jury Report “San Diego
Development Services Department: Professionals in a Maze”**

Finding: *The relationships of the three manuals to each other and of the revisions to the whole plan area are not manifest.*

Response: The respondent wholly disagrees with the finding. Although it is difficult to understand the Grand Jury’s findings as it pertains to the three New Century Center Master Plans, we assume they are referring to the Master Plan having been approved in 1997 with amendments in 2000 and 2002. Land Use Entitlements can be amended; however, there is only one Master Plan guiding document for the New Century Center that is used to evaluate current development proposals. The document includes three volumes, titled Master Plan, Development Standards, and Design Guidelines which were approved on November 12, 2002.

Each manual is distinct to each area covered by the specific amendment made by subsequent property owners for a distinct area of the development site. The City believes each is very descriptive and easy to read and enforce.

Similar to the New Century Center, other development projects are often amended after their initial approval. Some are amended many times over many years. The Development Services Department is responsible for retaining these multiple amendments and helping property owners and members of the public to discern the applicable project requirements to any piece of property. DSD developed a project tracking system that is used to maintain information on multiple permits issued for the same property.

Recommendations (City Council and the Development Services Department):

08-35: Revise the three New Century Center manuals to reflect their relationship to each other and to the entire plan area.

Response: The recommendation will not be implemented. Although it is difficult to understand the Grand Jury’s findings as it pertains to the three New Century Center Master Plans, we assume they are referring to the Master Plan having been approved in 1997 with amendments in 2000 and 2002. Land Use Entitlements can be amended however there is only one Master Plan guiding document for the New Century Center that is used to evaluate current development proposals. The document includes three volumes, titled Master Plan, Development Standards, and Design Guidelines which were approved on November 12, 2002.

Each manual is distinct to each area covered by the specific amendment made by subsequent property owners for a distinct area of the development site. The City believes each is very descriptive and easy to read and enforce.

08-36: Impose a moratorium on all new building permits in all of the New Century Center development area until the City Council receives a density transfer audit for the property that they determine fits their criteria for the project.

**City Council Approved Responses to the Grand Jury Report “San Diego
Development Services Department: Professionals in a Maze”**

Response: The recommendation will not be implemented. The City does not recommend a moratorium on new building permits in the New Century Center Development Area but agrees that detailed development monitoring be implemented. DSD currently evaluates each proposed project to determine compliance with density transfer and transportation limits outlined in the approved master plan manuals and permits for the project. The City is creating a comprehensive inventory of existing development density and transportation approvals for the existing center. This inventory will be completed within three months and will be maintained in the project files for use by staff in reviewing all future projects proposed at the New Century Center.



000019

THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: June 25, 2008

IBA Report Number: 08-68

Response to Grand Jury Report Titled "San Diego City Development Services Department: Professionals in a Maze"

On April 16, 2008 the San Diego County Grand Jury issued a report to the Mayor and the City Council entitled "San Diego City Development Services Department: Professionals in a Maze." The report's purpose is to "describe various areas of the Development Services Department (DSD) procedures that seem to be overly complex and that need reorganization and simplification." The report includes three findings and nine recommendations.

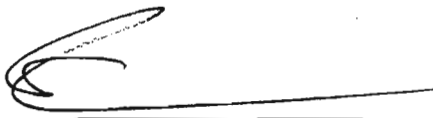
The City Council is required to provide comments to the Presiding Judge of the Superior Court on all of the findings and eight of the nine recommendations included in the Grand Jury Report by July 15, 2008. The Mayor is required to provide responses on each of the findings, but for only four of the recommendations. The Development Services Department is also required to respond to three of the recommendations. Due to the citywide nature of the topic involved, the Mayor has elected to respond to each and every finding, recommendation and a few of the facts. For each item that the Council must respond to, the Council may join the Mayor's response, modify the Mayor's response, or respond independently. This report presents the Council's responses as recommended by the IBA.

The IBA recommends that the City Council adopt the following as its' response to the Grand Jury Reports:


**Office of Independent Budget Analyst**202 C Street, MS 3A • San Diego, CA 92101
Tel (619) 236-6555 Fax (619) 236-6556

Recommendation:	08-28, 08-29, 08-30, 08-31, 08-35, 08-36	<i>Join the Mayor's Response</i>
Findings:	1, 2, 3	
Recommendation:	None	<i>Modify the Mayor's Response</i>
Finding:	None	
Recommendation:	08-33, 08-34	<i>Respond Independently</i>
Finding:	None	

The full text of the Mayor's responses that include recommended changes from the IBA can be found in the attachment to this report.



Jeffrey Sturak
Fiscal & Policy Analyst



APPROVED: Andrea Tevlin
Independent Budget Analyst

Attachment

000021

Discussion 1: The Development Services Department

Facts (Mayor):

Fact: The ethics training recommended in the SawyerKnoll report has yet to be conducted.

Mayor's Response: Development Services was among the first departments to receive ethics training created by the City of San Diego's Office of Ethics and Integrity. The online training, conducted during August 2007, specifically addressed areas of misconduct such as: conflicts of interest; improper use of position; improper use of City resources; falsification of records (including theft of time); and favoritism/nepotism, among other topics. The training also covered City rules regarding gifts and favors; e-mail and Internet usage; whistleblower protection; and confidentiality, as well as other policies and procedures.

The compliance training helped clarify the City's ethics policies using realistic situations that City employees may find themselves in. Further, it reinforced to employees the importance of carefully thinking through their words and actions in order to protect the public's trust. Because all City employees are taking this training, employees come away from it with a shared understanding of City rules and every member of the workforce will be in a position to do the right thing when faced with situations that cause uncertainty.

Additional tailored ethics training designed around specific Development Services employee needs is also being developed by the Office of Ethics and Integrity and currently scheduled for deployment later this year.

IBA's Recommendation: This Mayoral response is provided for information only. The City Council is not required to respond to this fact.

Fact: The Land Development Code is 1700 pages long, difficult to access, disorganized, and has complicated indexing.

Mayor's Response: The Land Development Code (LDC) is available on the City of San Diego website and can easily be electronically searched for any term or subject using the freely available Adobe Acrobat software. As described in the LDC User's Manual, the code was arranged in a very conscious manner to keep like information grouped together and to provide an organization that allows users to find regulations easily. The User's Manual can be found at (www.sandiego.gov/development-services/industry/pdf/landdevmanual/ldmusersguide.pdf)

The LDC, adopted by City Council in 1997 and made effective January 1, 2000 following California Coastal Commission certification, was a complete overhaul of the City's Municipal Codes affecting land development. This extensive update was done through a

Proposed Responses to the Grand Jury Report "San Diego Development Services
Department: Professionals in a Maze

deliberate and public process involving more than 300 public meetings. The update's goals were to simplify regulations, to make them clearer, to make project outcomes more predictable, and to make regulations understandable. A City Council appointed Citizen's Advisory Committee (CAC) directed the staff update and provided guidance on all aspects of the effort. Following adoption of the LDC, this same citizen's group was maintained to help provide guidance on all updates to the code. Four citizens from the original (CAC) still voluntarily participate in the current advisory committee.

The City's Land Development Code received the League of California Cities 2001 Helen Putnam Award for excellence in City Government.

IBA's Recommendation: This Mayoral response is provided for information only. The City Council is not required to respond to this fact.

Fact: *The DSD is budgeted strictly as an enterprise fund. This leads to frequent loss or position changes for trained personnel.*

Mayor's Response: As an enterprise fund department, DSD relies on user fees to fund staff positions. Like in private industry, as DSD workload increases, additional staff are hired. Likewise, if DSD workload decreases, then DSD must eliminate positions to have control costs. This has not lead to "frequent loss or position changes" in the department. The recent reduction in staffing over the past two years is reflection of the national and statewide economic trends for development.

IBA's Recommendation: This Mayoral response is provided for information only. The City Council is not required to respond to this fact.

Findings (Mayor and City Council):

Finding: *We found the DSD personnel to be knowledgeable, forthcoming, and helpful.*

Mayor's Response: The respondent agrees with the finding.

IBA's Recommendation: Join the Mayor's Response.

Finding: *Training is conducted informally on the job with no formal process prescribed.*

Mayor's Response: The respondent wholly disagrees with this finding. DSD staff workgroups that require formalized training have established plans for their employees. Many employees are college educated professionals in development, design, and planning related fields with knowledge specific to the plan review functions. Others are registered professionals certified in their areas of expertise by the state.

The department also has established performance measures that include a goal of 4 hours of training per month per employee. Department work hours were modified over 4 years

Proposed Responses to the Grand Jury Report "San Diego Development Services
Department: Professionals in a Maze

ago to provide adequate time for staff working public counters to achieve their training performance goals. During Fiscal Years 2005 and 2006, the Department met or exceeded their training goals. Due to reduction in staffing and decreased workloads in Fiscal Years 2007 and 2008, the Department has met their training performance measure 50% of the time.

IBA's Recommendation: Join the Mayor's Response

Recommendations (Mayor and City Council):

08-28: Rewrite the Land Development Code to make it shorter, user friendly, better organized, and cross referenced for ease of use.

Mayor's Response: The recommendation will not be implemented. The City's regulations for development have evolved over many years and have to address the varying land uses and challenges that face a City as large and diverse as the City of San Diego.

The Land Development Code (LDC), adopted by the City Council in 1997 and made effective January 1, 2000 following California Coastal Commission certification, was a complete overhaul of the City's Municipal Codes affecting land development. This extensive update was done through a deliberate and public process involving more than 300 public meetings. The update's goals were to simplify regulations, to make them clearer, to make project outcomes more predictable, and to make regulations understandable. A City Council appointed Citizen's Advisory Committee (CAC) directed the staff update and provided guidance on all aspects of the effort. Following adoption of the LDC, the CAC was maintained to help provide guidance on all updates to the code. Four citizens from the original CAC still voluntarily participate in the current advisory committee referred to as the Code Monitoring Team.

The City's Land Development Code received the League of California Cities 2001 Helen Putnam Award for excellence in City Government.

The City intends to continue its efforts to improve regulations as part of the ongoing community plan update process. As community plans are updated, regulations will be revised to clearly implement adopted land use policies in the most straight forward way possible. Community plans are scheduled to be updated on a constant cycle over a 20 year period.

IBA's Recommendation: Join the Mayor's Response

08-29: Make up-to-date version of the Land Development Code more accessible to citizens.

Mayor's Response: The recommendation will not be implemented. The Land Development Code is available on the City of San Diego website and can easily be

000024 **Proposed Responses to the Grand Jury Report "San Diego Development Services
Department: Professionals in a Maze**

electronically searched for any term or subject using the freely available Adobe Acrobat software. The City generally makes new regulations available on its website within one month of the effective date of new regulations.

The Mayor's Business Process Reengineering (BPR) effort for Development Services recommends changes that will further improve the timeliness and accuracy of publication of the current code and future updates. City Council must approve the recommendations before these changes can be implemented. It is anticipated the DSD's BPR will be heard early in fiscal year 2009.

IBA's Recommendation: Join the Mayor's Response

08-30: Reconfigure the funding for the DSD to cap periods of high personnel needs and to put a floor under their funding during periods of low numbers of applications.

Mayor's Response: The recommendation requires further analysis. DSD is currently going through a pre-competition analysis to determine the best method to deal with changing workloads including both surge and decline scenarios. It is anticipated that pre-competition recommendations will be completed early in Fiscal Year 2009. Additionally, the Mayor's BPR effort for DSD recommends that strategies are put into place to address changing workloads. It is likewise anticipated that City Council will consider these recommendations for approval early in Fiscal Year 2009.

IBA's Recommendation: Join the Mayor's Response

08-31: Institute formalized training in DSD.

Mayor's Response: This recommendation has been implemented before this grand jury was seated. DSD staff workgroups that require formalized training have established plans for their employees. Many employees are college educated professionals in development, design, and planning related fields with knowledge specific to the plan review functions. Others are registered professionals certified in their areas of expertise by the state.

The department also has established performance measures that include a goal of 4 hours of training per month per employee. Department work hours were modified over 4 years ago to provide adequate time for staff working public counters to achieve their training performance goals. During Fiscal Years 2005 and 2006, the Department met or exceeded their training goals. Due to reduction in staffing and decreased workloads in Fiscal Years 2007 and 2008, the Department has met their training performance measure 50% of the time.

IBA's Recommendation: Join the Mayor's Response

000025

Discussion 2: Six Minor Development Projects Under Consideration in the City of San Diego

Recommendation (Development Services Department):

08-32: Ensure the MNDs are complete and accurate and contain full disclosures.

DSD Response: This recommendation has been implemented. The City of San Diego already prepares accurate and complete environmental documents that contain full disclosures. The City's environmental review and preparation of Negative Declarations, Mitigated Negative Declarations, Environmental Impact Reports and Exemptions is based on the California Environmental Quality Act, recent case law, and the City's codes, policies and regulations.

For example, the Grand Jury Report states in Case Study #1 related to the Pacific Coast Office Building project, "The application for the Pacific Coast Office Building specified a building height that would rise to nearly 200 feet – 50 feet i.e., 33% higher than the recommended height limit in the Mission Valley Development Plan." This is incorrect. The proposed project was in compliance with the development requirements of the Mission Valley Planned District Ordinance, including the height limit. The case study goes on to state, "The proposal recently rejected by the City Council would require an intrusion into dedicated open space to ensure a mandated 100-foot brush clearance zone." This is incorrect. There was no intrusion into dedicated open space proposed by the project. The protected open space easement on the property was not impacted by the proposed development. Case Study #2 regarding the Stebbins Residence states, "The development proposals all showed a house with considerable elevation, which did not fit in with the surrounding area and might have obstructed ocean views." The Ocean Beach Community Plan and Local Coastal Program establish protected view corridors and public vantage points to the ocean. This is the City's standard of review for determining view impacts of a project. The case study fails to mention that none of the protected public vantage points or view corridors to the ocean were impacted by the development proposal. In Case Study #3, the Mesa College Parking Lot, the Grand Jury Report states "It is not clear whether the plans called only for grading and not inclusion of park property, or if any such distinction was made to Council." The development plans for the proposed parking lot identified encroachment into parkland for grading, and restoration of those graded areas. Limits of work for the project that extended into the adjacent Kearny Mesa Park were clearly identified on the project plans. It is assumed that this incorrect information was used to develop recommendations.

IBA's Recommendation: This Mayoral response is provided for information only. The City Council is not required to respond to this fact.

Recommendations (San Diego City Council):

08-33 Demand complete and accurate EIRs and MNDs with full disclosures

Mavor's Response: The recommendation will not be implemented because it is not warranted. The information summarized in the Grand Jury Case Studies #1 through #6 appears to contain inaccuracies and aspects of the projects and environmental documents that are factually incorrect.

For example, the Grand Jury Report states in Case Study #1 related to the Pacific Coast Office Building project, "The application for the Pacific Coast Office Building specified a building height that would rise to nearly 200 feet – 50 feet i.e., 33% higher than the recommended height limit in the Mission Valley Development Plan." This is incorrect. The proposed project was in compliance with the development requirements of the Mission Valley Planned District Ordinance, including the height limit. The case study goes on to state, "The proposal recently rejected by the City Council would require an intrusion into dedicated open space to ensure a mandated 100-foot brush clearance zone." This is incorrect. There was no intrusion into dedicated open space proposed by the project. The protected open space easement on the property was not impacted by the proposed development. Case Study #2 regarding the Stebbins Residence states, "The development proposals all showed a house with considerable elevation, which did not fit in with the surrounding area and might have obstructed ocean views." The Ocean Beach Community Plan and Local Coastal Program establish protected view corridors and public vantage points to the ocean. This is the City's standard of review for determining view impacts of a project. The case study fails to mention that none of the protected public vantage points or view corridors to the ocean were impacted by the development proposal. In Case Study #3, the Mesa College Parking Lot, the Grand Jury Report states "It is not clear whether the plans called only for grading and not inclusion of park property, or if any such distinction was made to Council." The development plans for the proposed parking lot identified encroachment into parkland for grading, and restoration of those graded areas. Limits of work for the project that extended into the adjacent Kearny Mesa Park were clearly identified on the project plans. It is assumed that this incorrect information was used to develop recommendations.

It is the Lead Agency's responsibility to determine if a project would have a significant impact on the environment. An EIR is required when clearly there is a significant impact that can not be mitigated to a level below significance even after project approval, for which the decision maker would have to adopt a Statement of Overriding Considerations for those unmitigated impact or impacts. However, if during the CEQA Initial Study process, substantial evidence shows that the project may not have a significant effect on the environment, the lead agency shall prepare a Negative Declaration.

Direct, indirect, and cumulative environmental impacts and corresponding significance thresholds vary from lead agency, as well as jurisdiction. Each agency's thresholds of significance provide a standardized baseline to determine whether or not a specific impact would be considered significant, potentially significant, or not a significant effect

**Proposed Responses to the Grand Jury Report "San Diego Development Services
Department: Professionals in a Maze"**

on the environment. Because an opponent or interested party states that an EIR must be prepared, does not necessarily mean or require the lead agency to prepare an EIR. On the contrary, the lead agency's determination must be based on the substantial evidence (e.g. approved technical reports prepared in compliance with local, state and federal standards) in light of the whole record.

It was stated in the Grand Jury report that opponents of projects have indicated that the City's MNDs are sometime inaccurate and that EIRs would be more appropriate. If a project does not meet the requirements for the preparation of an EIR as stated in CEQA, the Lead Agency cannot make their determination of an EIR based on public controversy. Public Resources Code Section 21082.2(b) and CEQA Guideline 15064(f)(4) clearly state: "The existence of public controversy over the environmental effects of a project will not require a preparation of an EIR if there is no substantial evidence before the agency that project may have a significant effect on the environment."

The City of San Diego prepares accurate and complete environmental documents that contain full disclosures. This recommendation is standard practice for the City and therefore warrants no further action.

It is part of staff's professional practice to answer questions asked by City Council members in a public hearing in a thorough and complete manner. This recommendation is customary procedure and warrants no further action.

IBA's Recommendation: Do not join the Mayor's Response and instead respond with the following:

"This recommendation has been implemented. The City Council requires staff to provide accurate and complete environmental documents that contain full disclosures for projects that are to be heard before Council. Items that are to be heard by the City Council are required to follow the City's standard docketing procedures."

08-34: Insist on firm, clear answers to their questions at the time they are asked or at the next City Council meeting.

Mayor's Response: The recommendation will not be implemented because it is not warranted. The information summarized in the Grand Jury Case Studies #1 through #6 appears to contain inaccuracies and aspects of the projects and environmental documents that are factually incorrect.

For example, the Grand Jury Report states in Case Study #1 related to the Pacific Coast Office Building project, "The application for the Pacific Coast Office Building specified a building height that would rise to nearly 200 feet – 50 feet i.e., 33% higher than the recommended height limit in the Mission Valley Development Plan." This is incorrect. The proposed project was in compliance with the development requirements of the Mission Valley Planned District Ordinance, including the height limit. The case study

goes on to state, "The proposal recently rejected by the City Council would require an intrusion into dedicated open space to ensure a mandated 100-foot brush clearance zone." This is incorrect. There was no intrusion into dedicated open space proposed by the project. The protected open space easement on the property was not impacted by the proposed development. Case Study #2 regarding the Stebbins Residence states, "The development proposals all showed a house with considerable elevation, which did not fit in with the surrounding area and might have obstructed ocean views." The Ocean Beach Community Plan and Local Coastal Program establish protected view corridors and public vantage points to the ocean. This is the City's standard of review for determining view impacts of a project. The case study fails to mention that none of the protected public vantage points or view corridors to the ocean were impacted by the development proposal. In Case Study #3, the Mesa College Parking Lot, the Grand Jury Report states "It is not clear whether the plans called only for grading and not inclusion of park property, or if any such distinction was made to Council." The development plans for the proposed parking lot identified encroachment into parkland for grading, and restoration of those graded areas. Limits of work for the project that extended into the adjacent Kearny Mesa Park were clearly identified on the project plans. It is assumed that this incorrect information was used to develop recommendations.

It is the Lead Agency's responsibility to determine if a project would have a significant impact on the environment. An EIR is required when clearly there is a significant impact that can not be mitigated to a level below significance even after project approval, for which the decision maker would have to adopt a Statement of Overriding Considerations for those unmitigated impact or impacts. However, if during the CEQA Initial Study process, substantial evidence shows that the project may not have a significant effect on the environment, the lead agency shall prepare a Negative Declaration.

Direct, indirect, and cumulative environmental impacts and corresponding significance thresholds vary from lead agency, as well as jurisdiction. Each agency's thresholds of significance provide a standardized baseline to determine whether or not a specific impact would be considered significant, potentially significant, or not a significant effect on the environment. Because an opponent or interested party states that an EIR must be prepared, does not necessarily mean or require the lead agency to prepare an EIR. On the contrary, the lead agency's determination must be based on the substantial evidence (e.g. approved technical reports prepared in compliance with local, state and federal standards) in light of the whole record.

It was stated in the Grand Jury report that opponents of projects have indicated that the City's MNDs are sometime inaccurate and that EIRs would be more appropriate. If a project does not meet the requirements for the preparation of an EIR as stated in CEQA, the Lead Agency cannot make their determination of an EIR based on public controversy. Public Resources Code Section 21082.2(b) and CEQA Guideline 15064(f)(4) clearly state: "The existence of public controversy over the environmental effects of a project will not require a preparation of an EIR if there is no substantial evidence before the agency that project may have a significant effect on the environment."

The City of San Diego prepares accurate and complete environmental documents that contain full disclosures. This recommendation is standard practice for the City and therefore warrants no further action.

It is part of staff's professional practice to answer questions asked by City Council members in a public hearing in a thorough and complete manner. This recommendation is customary procedure and warrants no further action.

IBA's Recommendation: Do not join the Mayor's Response and instead respond with the following:

"This recommendation has been implemented and continues to be implemented at every Council meeting. The City Council expects staff to provide clear and accurate responses to all questions. If staff is not able to answer a question during a City Council hearing, staff is expected to respond expeditiously in writing to the question."

Discussion 3: Sunroad Centrum 12

Fact (Mayor):

Fact: There are three New Century Center manuals being used by developers and the DSD.

Mayor's Response: Although it is difficult to understand the Grand Jury's findings as it pertains to the three New Century Center Master Plans, we assume they are referring to the Master Plan having been approved in 1997 with amendments in 2000 and 2002. Land Use Entitlements can be amended; however, there is only one Master Plan guiding document for the New Century Center that is used to evaluate current development proposals. The document includes three volumes, titled Master Plan, Development Standards, and Design Guidelines which were approved November 12, 2002. Each manual is distinct to each area covered by the specific amendment made by subsequent property owners for a distinct area of the development site. The City believes each is very descriptive and easy to read.

Similar to the New Century Center, other development projects are often amended after their initial approval. Some are amended many times over many years. The Development Services Department is responsible for retaining these multiple amendments and helping property owners and members of the public to discern the applicable project requirements to any piece of property. DSD developed a project tracking system that is used to maintain information on multiple permits issued for the same property.

IBA's Recommendation: This Mayoral response is provided for information only. The City Council is not required to respond to this fact.

Finding (Mayor and City Council)

Finding: The relationships of the three manuals to each other and of the revisions to the whole plan area are not manifest.

Mayor's Response: The respondent wholly disagrees with the finding. Although it is difficult to understand the Grand Jury's findings as it pertains to the three New Century Center Master Plans, we assume they are referring to the Master Plan having been approved in 1997 with amendments in 2000 and 2002. Land Use Entitlements can be amended; however, there is only one Master Plan guiding document for the New Century Center that is used to evaluate current development proposals. The document includes three volumes, titled Master Plan, Development Standards, and Design Guidelines which were approved November 12, 2002

Each manual is distinct to each area covered by the specific amendment made by subsequent property owners for a distinct area of the development site. The City believes each is very descriptive and easy to read and enforce.

Similar to the New Century Center, other development projects are often amended after their initial approval. Some are amended many times over many years. The Development Services Department is responsible for retaining these multiple amendments and helping property owners and members of the public to discern the applicable project requirements to any piece of property. DSD developed a project tracking system that is used to maintain information on multiple permits issued for the same property.

IBA's Recommendation: Join the Mayor's Response

Recommendations (City Council and the Development Services Department):

08-35: Revise the three New Century Center manuals to reflect their relationship to each other and to the entire plan area.

Mayor's Response: The recommendation will not be implemented. Although it is difficult to understand the Grand Jury's findings as it pertains to the three New Century Center Master Plans, we assume they are referring to the Master Plan having been approved in 1997 with amendments in 2000 and 2002. Land Use Entitlements can be amended however there is only one Master Plan guiding document for the New Century Center that is used to evaluate current development proposals. The document includes three volumes, titled Master Plan, Development Standards, and Design Guidelines which were approved November 12, 2002

Each manual is distinct to each area covered by the specific amendment made by subsequent property owners for a distinct area of the development site. The City believes each is very descriptive and easy to read and enforce.

IBA's Recommendation: Join the Mayor's Response

08-36: Impose a moratorium on all new building permits in all of the New Century Center development area until the City Council receives a density transfer audit for the property that they determine fits their criteria for the project.

Mayor's Response: The recommendation will not be implemented. The City does not recommend a moratorium on new building permits in the New Century Center Development Area but agrees that detailed development monitoring be implemented. DSD currently evaluates each proposed project to determine compliance with density transfer and transportation limits outlined in the approved master plan manuals and permits for the project. The City is creating a comprehensive inventory of existing development density and transportation approvals for the existing center. This inventory will be completed within 3 months and will be maintained in the project files for use by staff in reviewing all future projects proposed at the New Century Center.

IBA Recommendation: Join the Mayor's Response.



JERRY SANDERS
MAYOR

July 10, 2008

Honorable Kenneth So
Presiding Judge
San Diego County Superior Court
Main Courthouse, Third Floor
220 West Broadway
San Diego, CA 92101

Dear Judge So:

Subject: 2007-2008 San Diego County Grand Jury Report entitled "San Diego City Development Services Department: Professionals in a Maze".

Facts (Mayor):

Fact: The ethics training recommended in the SawyerKnoll report has yet to be conducted.

Mayor's Response: Development Services was among the first departments to receive ethics training created by the City of San Diego's Office of Ethics and Integrity. The online training, conducted during August 2007, specifically addressed areas of misconduct such as: conflicts of interest; improper use of position; improper use of City resources; falsification of records (including theft of time); and favoritism/nepotism, among other topics. The training also covered City rules regarding gifts and favors; e-mail and Internet usage; whistleblower protection; and confidentiality, as well as other policies and procedures.

The compliance training helped clarify the City's ethics policies using realistic situations that City employees may find themselves in. Further, it reinforced to employees the importance of carefully thinking through their words and actions in order to protect the public's trust. Because all City employees are taking this training, employees come away from it with a shared understanding of City rules and every member of the workforce will be in a position to do the right thing when faced with situations that cause uncertainty.

Additional tailored ethics training designed around specific Development Services employee needs is also being developed by the Office of Ethics and Integrity and currently scheduled for deployment later this year.

Fact: The Land Development Code is 1700 pages long, difficult to access, disorganized, and has complicated indexing.

Mayor's Response: The Land Development Code (LDC) is available on the City of San Diego website and can easily be electronically searched for any term or subject using the freely available Adobe Acrobat software. As described in the LDC User's Manual, the code was arranged in a very conscious manner to keep like information grouped together and to provide an organization that allows users to find regulations easily. The User's Manual can be found at (www.sandiego.gov/development-services/industry/pdf/landdevmanual/lmusersguide.pdf)

The LDC, adopted by City Council in 1997 and made effective January 1, 2000 following California Coastal Commission certification, was a complete overhaul of the City's Municipal Codes affecting land development. This extensive update was done through a deliberate and public process involving more than 300 public meetings. The update's goals were to simplify regulations, to make them clearer, to make project outcomes more predicable, and to make regulations understandable. A City Council appointed Citizen's Advisory Committee (CAC) directed the staff update and provided guidance on all aspects of the effort. Following adoption of the LDC, this same citizen's group was maintained to help provide guidance on all updates to the code. Four citizens from the original (CAC) still voluntarily participate in the current advisory committee.

The City's Land Development Code received the League of California Cities 2001 Helen Putnam Award for excellence in City Government.

Fact: The DSD is budgeted strictly as an enterprise fund. This leads to frequent loss or position changes for trained personnel.

Mayor's Response: As an enterprise fund department, DSD relies on user fees to fund staff positions. Like in private industry, as DSD workload increases, additional staff are hired. Likewise, if DSD workload decreases, then DSD must eliminate positions to have control costs. This has not lead to "frequent loss or position changes" in the department. The recent reduction in staffing over the past two years is reflection of the national and statewide economic trends for development.

Findings (Mayor and City Council):

Finding: We found the DSD personnel to be knowledgeable, forthcoming, and helpful.

Mayor's Response: The respondent agrees with the finding.

Finding: Training is conducted informally on the job with no formal process prescribed.

Mayor's Response: The respondent wholly disagrees with this finding. DSD staff workgroups that require formalized training have established plans for their employees. Many employees are college educated professionals in development, design, and planning related fields with knowledge specific to the plan review functions. Others are registered professionals certified in their areas of expertise by the state.

The department also has established performance measures that include a goal of 4 hours of training per month per employee. Department work hours were modified over 4 years ago to provide adequate time for staff working public counters to achieve their training performance goals. During Fiscal Years 2005 and 2006, the Department met or exceeded their training goals. Due to reduction in staffing and decreased workloads in Fiscal Years 2007 and 2008, the Department has met their training performance measure 50% of the time.

Recommendations (Mayor and City Council):

08-28: Rewrite the Land Development Code to make it shorter, user friendly, better organized, and cross referenced for ease of use.

Mayor's Response: The recommendation will not be implemented. The City's regulations for development have evolved over many years and have to address the varying land uses and challenges that face a City as large and diverse as the City of San Diego.

The Land Development Code (LDC), adopted by the City Council in 1997 and made effective January 1, 2000 following California Coastal Commission certification, was a complete overhaul of the City's Municipal Codes affecting land development. This extensive update was done through a deliberate and public process involving more than 300 public meetings. The update's goals were to simplify regulations, to make them clearer, to make project outcomes more predicable, and to make regulations understandable. A City Council appointed Citizen's Advisory Committee (CAC) directed the staff update and provided guidance on all aspects of the effort. Following adoption of the LDC, the CAC was maintained to help provide guidance on all updates to the code. Four citizens from the original CAC still voluntarily participate in the current advisory committee referred to as the Code Monitoring Team.

The City's Land Development Code received the League of California Cities 2001 Helen Putnam Award for excellence in City Government.

The City intends to continue its efforts to improve regulations as part of the ongoing community plan update process. As community plans are updated, regulations will be revised to clearly implement adopted land use polices in the most straight forward way

possible. Community plans are scheduled to be updated on a constant cycle over a 20 year period.

08-29: Make up-to-date version of the Land Development Code more accessible to citizens.

Mayor's Response: The recommendation will not be implemented. The Land Development Code is available on the City of San Diego website and can easily be electronically searched for any term or subject using the freely available Adobe Acrobat software. The City generally makes new regulations available on its website within one month of the effective date of new regulations.

The Mayor's Business Process Reengineering (BPR) effort for Development Services recommends changes that will further improve the timeliness and accuracy of publication of the current code and future updates. City Council must approve the recommendations before these changes can be implemented. It is anticipated the DSD's BPR will be heard early in fiscal year 2009.

08-30: Reconfigure the funding for the DSD to cap periods of high personnel needs and to put a floor under their funding during periods of low numbers of applications.

Mayor's Response: The recommendation requires further analysis. DSD is currently going through a pre-competition analysis to determine the best method to deal with changing workloads including both surge and decline scenarios. It is anticipated that pre-competition recommendations will be completed early in Fiscal Year 2009. Additionally, the Mayor's BPR effort for DSD recommends that strategies are put into place to address changing workloads. It is likewise anticipated that City Council will consider these recommendations for approval early in Fiscal Year 2009.

08-31: Institute formalized training in DSD.

Mayor's Response: This recommendation has been implemented before this grand jury was seated. DSD staff workgroups that require formalized training have established plans for their employees. Many employees are college educated professionals in development, design, and planning related fields with knowledge specific to the plan review functions. Others are registered professionals certified in their areas of expertise by the state.

The department also has established performance measures that include a goal of 4 hours of training per month per employee. Department work hours were modified over 4 years ago to provide adequate time for staff working public counters to achieve their training performance goals. During Fiscal Years 2005 and 2006, the Department met or exceeded their training goals. Due to reduction in staffing and decreased workloads in Fiscal Years

2007 and 2008, the Department has met their training performance measure 50% of the time.

Discussion 2: Six Minor Development Projects Under Consideration in the City of San Diego

Recommendation (Development Services Department):

08-32: Ensure the MNDs are complete and accurate and contain full disclosures.

DSD Response: This recommendation has been implemented. The City of San Diego already prepares accurate and complete environmental documents that contain full disclosures. The City's environmental review and preparation of Negative Declarations, Mitigated Negative Declarations, Environmental Impact Reports and Exemptions is based on the California Environmental Quality Act, recent case law, and the City's codes, policies and regulations.

For example, the Grand Jury Report states in Case Study #1 related to the Pacific Coast Office Building project, "The application for the Pacific Coast Office Building specified a building height that would rise to nearly 200 feet – 50 feet i.e., 33% higher than the recommended height limit in the Mission Valley Development Plan." This is incorrect. The proposed project was in compliance with the development requirements of the Mission Valley Planned District Ordinance, including the height limit. The case study goes on to state, "The proposal recently rejected by the City Council would require an intrusion into dedicated open space to ensure a mandated 100-foot brush clearance zone." This is incorrect. There was no intrusion into dedicated open space proposed by the project. The protected open space easement on the property was not impacted by the proposed development. Case Study #2 regarding the Stebbins Residence states, "The development proposals all showed a house with considerable elevation, which did not fit in with the surrounding area and might have obstructed ocean views." The Ocean Beach Community Plan and Local Coastal Program establish protected view corridors and public vantage points to the ocean. This is the City's standard of review for determining view impacts of a project. The case study fails to mention that none of the protected public vantage points or view corridors to the ocean were impacted by the development proposal. In Case Study #3, the Mesa College Parking Lot, the Grand Jury Report states "It is not clear whether the plans called only for grading and not inclusion of park property, or if any such distinction was made to Council." The development plans for the proposed parking lot identified encroachment into parkland for grading, and restoration of those graded areas. Limits of work for the project that extended into the adjacent Kearny Mesa Park were clearly identified on the project plans. It is assumed that this incorrect information was used to develop recommendations.

Recommendations (San Diego City Council):

08-33 Demand complete and accurate EIRs and MNDs with full disclosures

Mayor's Response: The recommendation will not be implemented because it is not warranted. The information summarized in the Grand Jury Case Studies #1 through #6 appears to contain inaccuracies and aspects of the projects and environmental documents that are factually incorrect.

For example, the Grand Jury Report states in Case Study #1 related to the Pacific Coast Office Building project, "The application for the Pacific Coast Office Building specified a building height that would rise to nearly 200 feet – 50 feet i.e., 33% higher than the recommended height limit in the Mission Valley Development Plan." This is incorrect. The proposed project was in compliance with the development requirements of the Mission Valley Planned District Ordinance, including the height limit. The case study goes on to state, "The proposal recently rejected by the City Council would require an intrusion into dedicated open space to ensure a mandated 100-foot brush clearance zone." This is incorrect. There was no intrusion into dedicated open space proposed by the project. The protected open space easement on the property was not impacted by the proposed development. Case Study #2 regarding the Stebbins Residence states, "The development proposals all showed a house with considerable elevation, which did not fit in with the surrounding area and might have obstructed ocean views." The Ocean Beach Community Plan and Local Coastal Program establish protected view corridors and public vantage points to the ocean. This is the City's standard of review for determining view impacts of a project. The case study fails to mention that none of the protected public vantage points or view corridors to the ocean were impacted by the development proposal. In Case Study #3, the Mesa College Parking Lot, the Grand Jury Report states "It is not clear whether the plans called only for grading and not inclusion of park property, or if any such distinction was made to Council." The development plans for the proposed parking lot identified encroachment into parkland for grading, and restoration of those graded areas. Limits of work for the project that extended into the adjacent Kearny Mesa Park were clearly identified on the project plans. It is assumed that this incorrect information was used to develop recommendations.

It is the Lead Agency's responsibility to determine if a project would have a significant impact on the environment. An EIR is required when clearly there is a significant impact that can not be mitigated to a level below significance even after project approval, for which the decision maker would have to adopt a Statement of Overriding Considerations for those unmitigated impact or impacts. However, if during the CEQA Initial Study process, substantial evidence shows that the project may not have a significant effect on the environment, the lead agency shall prepare a Negative Declaration.

Direct, indirect, and cumulative environmental impacts and corresponding significance thresholds vary from lead agency, as well as jurisdiction. Each agency's thresholds of significance provide a standardized baseline to determine whether or not a specific impact would be considered significant, potentially significant, or not a significant effect

on the environment. Because an opponent or interested party states that an EIR must be prepared, does not necessarily mean or require the lead agency to prepare an EIR. On the contrary, the lead agency's determination must be based on the substantial evidence (e.g. approved technical reports prepared in compliance with local, state and federal standards) in light of the whole record.

It was stated in the Grand Jury report that opponents of projects have indicated that the City's MNDs are sometime inaccurate and that EIRs would be more appropriate. If a project does not meet the requirements for the preparation of an EIR as stated in CEQA, the Lead Agency cannot make their determination of an EIR based on public controversy. Public Resources Code Section 21082.2(b) and CEQA Guideline 15064(f)(4) clearly state: "The existence of public controversy over the environmental effects of a project will not require a preparation of an EIR if there is no substantial evidence before the agency that project may have a significant effect on the environment."

The City of San Diego prepares accurate and complete environmental documents that contain full disclosures. This recommendation is standard practice for the City and therefore warrants no further action.

It is part of staff's professional practice to answer questions asked by City Council members in a public hearing in a thorough and complete manner. This recommendation is customary procedure and warrants no further action.

08-34: Insist on firm, clear answers to their questions at the time they are asked or at the next City Council meeting.

Mayor's Response: The recommendation will not be implemented because it is not warranted. The information summarized in the Grand Jury Case Studies #1 through #6 appears to contain inaccuracies and aspects of the projects and environmental documents that are factually incorrect.

For example, the Grand Jury Report states in Case Study #1 related to the Pacific Coast Office Building project, "The application for the Pacific Coast Office Building specified a building height that would rise to nearly 200 feet – 50 feet i.e., 33% higher than the recommended height limit in the Mission Valley Development Plan." This is incorrect. The proposed project was in compliance with the development requirements of the Mission Valley Planned District Ordinance, including the height limit. The case study goes on to state, "The proposal recently rejected by the City Council would require an intrusion into dedicated open space to ensure a mandated 100-foot brush clearance zone." This is incorrect. There was no intrusion into dedicated open space proposed by the project. The protected open space easement on the property was not impacted by the proposed development. Case Study #2 regarding the Stebbins Residence states, "The development proposals all showed a house with considerable elevation, which did not fit in with the surrounding area and might have obstructed ocean views." The Ocean Beach Community Plan and Local Coastal Program establish protected view corridors and

public vantage points to the ocean. This is the City's standard of review for determining view impacts of a project. The case study fails to mention that none of the protected public vantage points or view corridors to the ocean were impacted by the development proposal. In Case Study #3, the Mesa College Parking Lot, the Grand Jury Report states "It is not clear whether the plans called only for grading and not inclusion of park property, or if any such distinction was made to Council." The development plans for the proposed parking lot identified encroachment into parkland for grading, and restoration of those graded areas. Limits of work for the project that extended into the adjacent Kearny Mesa Park were clearly identified on the project plans. It is assumed that this incorrect information was used to develop recommendations.

It is the Lead Agency's responsibility to determine if a project would have a significant impact on the environment. An EIR is required when clearly there is a significant impact that can not be mitigated to a level below significance even after project approval, for which the decision maker would have to adopt a Statement of Overriding Considerations for those unmitigated impact or impacts. However, if during the CEQA Initial Study process, substantial evidence shows that the project may not have a significant effect on the environment, the lead agency shall prepare a Negative Declaration.

Direct, indirect, and cumulative environmental impacts and corresponding significance thresholds vary from lead agency, as well as jurisdiction. Each agency's thresholds of significance provide a standardized baseline to determine whether or not a specific impact would be considered significant, potentially significant, or not a significant effect on the environment. Because an opponent or interested party states that an EIR must be prepared, does not necessarily mean or require the lead agency to prepare an EIR. On the contrary, the lead agency's determination must be based on the substantial evidence (e.g. approved technical reports prepared in compliance with local, state and federal standards) in light of the whole record.

It was stated in the Grand Jury report that opponents of projects have indicated that the City's MNDs are sometime inaccurate and that EIRs would be more appropriate. If a project does not meet the requirements for the preparation of an EIR as stated in CEQA, the Lead Agency cannot make their determination of an EIR based on public controversy. Public Resources Code Section 21082.2(b) and CEQA Guideline 15064(f)(4) clearly state: "The existence of public controversy over the environmental effects of a project will not require a preparation of an EIR if there is no substantial evidence before the agency that project may have a significant effect on the environment."

The City of San Diego prepares accurate and complete environmental documents that contain full disclosures. This recommendation is standard practice for the City and therefore warrants no further action.

It is part of staff's professional practice to answer questions asked by City Council members in a public hearing in a thorough and complete manner. This recommendation is customary procedure and warrants no further action.

Discussion 3: Sunroad Centrum 12

Fact (Mayor):

Fact: There are three New Century Center manuals being used by developers and the DSD.

Mayor's Response: Although it is difficult to understand the Grand Jury's findings as it pertains to the three New Century Center Master Plans, we assume they are referring to the Master Plan having been approved in 1997 with amendments in 2000 and 2002. Land Use Entitlements can be amended; however, there is only one Master Plan guiding document for the New Century Center that is used to evaluate current development proposals. The document includes three volumes, titled Master Plan, Development Standards, and Design Guidelines which were approved November 12, 2002. Each manual is distinct to each area covered by the specific amendment made by subsequent property owners for a distinct area of the development site. The City believes each is very descriptive and easy to read.

Similar to the New Century Center, other development projects are often amended after their initial approval. Some are amended many times over many years. The Development Services Department is responsible for retaining these multiple amendments and helping property owners and members of the public to discern the applicable project requirements to any piece of property. DSD developed a project tracking system that is used to maintain information on multiple permits issued for the same property.

Finding (Mayor and City Council)

Finding: The relationships of the three manuals to each other and of the revisions to the whole plan area are not manifest.

Mayor's Response: The respondent wholly disagrees with the finding. Although it is difficult to understand the Grand Jury's findings as it pertains to the three New Century Center Master Plans, we assume they are referring to the Master Plan having been approved in 1997 with amendments in 2000 and 2002. Land Use Entitlements can be amended; however, there is only one Master Plan guiding document for the New Century Center that is used to evaluate current development proposals. The document includes three volumes, titled Master Plan, Development Standards, and Design Guidelines which were approved November 12, 2002

Each manual is distinct to each area covered by the specific amendment made by subsequent property owners for a distinct area of the development site. The City believes each is very descriptive and easy to read and enforce.

Similar to the New Century Center, other development projects are often amended after their initial approval. Some are amended many times over many years. The Development Services Department is responsible for retaining these multiple amendments and helping property owners and members of the public to discern the applicable project requirements to any piece of property. DSD developed a project tracking system that is used to maintain information on multiple permits issued for the same property.

Recommendations (City Council and the Development Services Department):

08-35: Revise the three New Century Center manuals to reflect their relationship to each other and to the entire plan area.

Mayor's Response: The recommendation will not be implemented. Although it is difficult to understand the Grand Jury's findings as it pertains to the three New Century Center Master Plans, we assume they are referring to the Master Plan having been approved in 1997 with amendments in 2000 and 2002. Land Use Entitlements can be amended however there is only one Master Plan guiding document for the New Century Center that is used to evaluate current development proposals. The document includes three volumes, titled Master Plan, Development Standards, and Design Guidelines which were approved November 12, 2002

Each manual is distinct to each area covered by the specific amendment made by subsequent property owners for a distinct area of the development site. The City believes each is very descriptive and easy to read and enforce.

08-36: Impose a moratorium on all new building permits in all of the New Century Center development area until the City Council receives a density transfer audit for the property that they determine fits their criteria for the project.

Mayor's Response: The recommendation will not be implemented. The City does not recommend a moratorium on new building permits in the New Century Center Development Area but agrees that detailed development monitoring be implemented. DSD currently evaluates each proposed project to determine compliance with density transfer and transportation limits outlined in the approved master plan manuals and permits for the project. The City is creating a comprehensive inventory of existing development density and transportation approvals for the existing center. This inventory will be completed within 3 months and will be maintained in the project files for use by staff in reviewing all future projects proposed at the New Century Center.

Please contact Kelly Broughton, Director, Development Services at (619) 321-3233 if you have additional questions.

Sincerely,



JERRY SANDERS
Mayor

cc: San Diego County Grand Jury
Chief Operating Officer
San Diego City Council
Deputy Chief, City Planning and Development
Director, Development Services
City Clerk
Administration Department Director

RESOLUTION NUMBER R- 303899

DATE OF FINAL PASSAGE JUL 07 2008

APPROVING THE CITY COUNCIL'S RESPONSE TO THE
2007-2008 SAN DIEGO COUNTY GRAND JURY REPORT
ENTITLED "SAN DIEGO CITY DEVELOPMENT SERVICES
DEPARTMENT: PROFESSIONALS IN A MAZE."

WHEREAS, on April 16, 2008 the 2007-2008 San Diego Grand Jury [Grand Jury] filed a report titled "San Diego Development Services Department: Professionals in a Maze" [Report]; and

WHEREAS, under California Penal Code section 933(c), within 90 days after the filing of the report, each public agency which the Grand Jury reviewed, and about which it issued the Report, must comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency; and

WHEREAS, the Grand Jury requested that the San Diego City Council respond to Report findings 1, 2, and 3, and recommendations numbered 08-28, 08-29, 08-30, 08-31, 08-33, 08-34, 08-35, and 08-36; and

WHEREAS, the Office of the Independent Budget Analyst has proposed a response to the Report as set forth in IBA Report No. 08-68 dated June 25, 2008, for the City Council's consideration; and

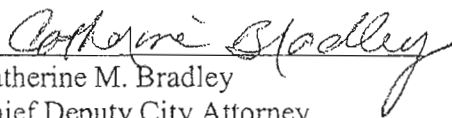
WHEREAS, under Charter section 280(a)(1) this resolution is not subject to veto by the Mayor because this matter is exclusively within the purview of the City Council and not affecting the administrative service of the City under the control of the Mayor; NOW,
THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Council approves and adopts as its own the response to the to the 2007-2008 San Diego County Grand Jury Report filed April 16, 2008, and titled "San Diego Development Services Department: Professionals in a Maze," as set forth in IBA Report No. 08-68 dated June 25, 2008.

BE IT FURTHER RESOLVED, that the response to recommendation 08-31 shall be revised to address the issues and concerns about training raised during the budget process.

BE IT FURTHER RESOLVED, that the Council President is authorized and directed, on behalf of the San Diego City Council, to execute and deliver the above-described response to the Presiding Judge of the San Diego County Superior Court no later than July 15, 2008.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Catherine M. Bradley
Chief Deputy City Attorney

CMB:als
06/26/08
07/07/08REV.
Or.Dept:IBA
R-2008-1196

passed by the Council of The City of San Diego on JUL 07 2008, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Mzienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

JUL 07 2008

date of final passage _____

AUTHENTICATED BY:

JERRY SANDERS

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

(Seal)

By [Signature], Deputy

Office of the City Clerk, San Diego, California

Resolution Number 8-303899