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SEP 11 2008

**COUNCIL PRESIDENT
SCOTT H. PETERS**

CITY OF SAN DIEGO

September 9, 2008

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SEP 15 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 "Fox Canyon and Wightman Street: A Tale of Two City Parks in Extremis"

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 May 13, 2008.

In summary, on September 2, 2008, the City Council voted to approve the recommendations contained in Independent Budget Analyst Report Number 08-88 dated August 19, 2008.

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,



Scott H. Peters

SHP/ms

Attachments: Council Response to "Fox Canyon and Wightman Street: A Tale of Two City Parks in Extremis"
IBA Report 08-88
Mayor's Response to "Fox Canyon and Wightman Street: A Tale of Two City Parks in Extremis"
Council Resolution No. R-2009-175

cc: Honorable Mayor
Councilmembers
Independent Budget Analyst

**City Council Responses to Facts, Findings and Recommendations
in Grand Jury Report “Fox Canyon and Wightman Street:
A Tale of Two City Parks in Extremis”**

For each of the following items, the City Council joins the Mayor’s Response as reflected in the August 8, 2008 letter to the Honorable Kenneth So, Presiding Judge of the San Diego Superior Court:

Fact (Mayor chose to correct)

All Findings: 1, 2, 3, and 4

Recommendations: 08-60 and 08-62

For the following item, the City Council responds as shown:

Recommendation 08-61: If the decision is to not construct a park on the Fox Canyon tract, bring the same departments of the City together to evaluate whether funds are available and should be used to construct a park at Wightman Street.

Response: Implemented. On March 27, 2007 the City Council gave direction to City staff to 1) transfer the funding allocated for Fox Canyon to the Wightman Street Neighborhood Park; and 2) the approval for the Mayor, or his representative, to request approval from the State of California Department of Parks and Recreation to amend the project location of the grant contract to the Wightman Street Neighborhood Park.

The City Council chose to supplement the above response with the following:

Over the past year, the City has undertaken a public process to complete the design of the Wightman Street Neighborhood Park, applied for necessary permits, and initiated the environmental review. On July 29, 2008, the City made the environmental determination of mitigated negative declaration (MND) pursuant to the California Environmental Quality Act (CEQA), and stated that an environmental impact report would not be required. In response to the Notice of Right to Appeal Environmental Determination dated July 31, 2008, the City received an appeal.

Prior to the receipt of the appeal, the City intended to resubmit the grant proposal to the State to request the transfer of grant funds to the Wightman Street location in August 2008. If the transfer request is approved, the start of construction is planned for August 2009, with project completion to occur in March 2010. However, the appeal process is likely to delay this schedule. The City Council will consider the appeal at its meeting of September 16, 2008.



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09/02

THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: August 19, 2008

IBA Report Number: 08-88

City Council Docket Date: September 2, 2008

Item Number: TBD

Response to Grand Jury Report Titled “Fox Canyon and Wightman Street: A Tale of Two City Parks in Extremis”

On May 15, 2008 the San Diego County Grand Jury issued a report to the Mayor and the City Council entitled “Fox Canyon and Wightman Street: A Tale of Two City Parks in Extremis”. The stated purpose of the Grand Jury Report is “to inform the public of the two park proposals; to recommend that the city establish a clear line of policy with respect to the Fox Canyon Park and that the city find some way to get around difficulties of its own making.”

The Grand Jury Report includes four findings and three recommendations. Both the Mayor and the City Council are required to provide comments to the Presiding Judge of the San Diego Superior Court on each of the findings and recommendations made in the Grand Jury Report within ninety days. The Mayor issued his response to the San Diego Superior Court on August 8, 2008. However, due to the legislative calendar of the City Council, Council President Peters requested an extension to the date for the City Council to respond to September 12, 2008. This report presents the City Council’s response as recommended by the IBA. If the actions are adopted by the City Council, the Council President will be authorized to deliver the Council’s response to the Superior Court.

In preparing these recommended responses, the IBA worked in coordination with the Mayor’s Office, and staff from the Park and Recreation Department and the Development Services Department. For each finding and recommendation, the City Council may 1) join the Mayor’s response; 2) respond with a modification of the Mayor’s response; or 3) respond independently of the Mayor.



Office of Independent Budget Analyst

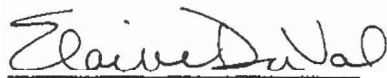
202 C Street, MS 3A • San Diego, CA 92101
Tel (619) 236-6555 Fax (619) 236-6556

In addition, in his response, the Mayor chose to correct statements which the Grand Jury Report described as facts, which is not required, but is important to ensure misstatements are not perpetuated.

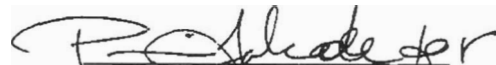
Of the eight items included in the Mayor's response, the IBA recommends that the City Council join the Mayor's response on all eight items, and provide supplemental information regarding the current status of the Wightman Street Neighborhood Park in response to Recommendation 08-61. The table below provides a summary of the IBA's recommendations.

Fact:		<i>Join the Mayor's Response</i>
Findings:	1, 2, 3, 4	<i>Join the Mayor's Response</i>
Recommendations:	08-60, 08-62	<i>Join the Mayor's Response</i>
Recommendation:	08-61	<i>Join the Mayor's Response with addition of supplemental information</i>

The full text of the Mayor's responses, and the IBA's recommended responses on behalf of the City Council can be found in the attachment to this report.



Elaine DuVal
Fiscal & Policy Analyst



APPROVED: Andrea Tevlin
Independent Budget Analyst

Attachment

**Recommended City Council Responses to Facts, Findings and Recommendations
in Grand Jury Report “Fox Canyon and Wightman Street:
A Tale of Two City Parks in Extremis”**

GRAND JURY FACTS

Fact: The Fox Canyon area south of University Avenue is short 22 acres of park space.

Mayor’s Response: Based on SANDAG 2007 figures, the Mid-City Community Planning area is deficient 86.70 gross acres and 137.32 useable acres of parkland. However, 11.56 useable acres are either under construction or recently acquired which reduce the deficit to 125.76.

The City does not estimate or allocate park acreage on a neighborhood basis within a Specific Community Planning area.

The City did not establish the 22-acre park deficient number for the Fox Canyon neighborhood area.

IBA Recommendation: Join the Mayor’s Response.

GRAND JURY FINDINGS (Numbered in sequential order)

Finding 1

The proposed Fox Canyon Park and Wightman Street Park would contribute greatly to a park-starved neighborhood.

Mayor’s Response: The Mayor agrees with this finding.

IBA Recommendation: Join the Mayor’s Response.

Finding 2

The City of San Diego has good preliminary plans to build a park in Fox Canyon.

Mayor’s Response: The City has a conceptual plan for a potential park on the property proposed for acquisition at the time the plan was developed, but a final approved General Development Plan via City Council Policy 300-33 would be required. The City of San Diego does not own the property titled “Fox Canyon Park”.

IBA Recommendation: Join the Mayor’s Response.

Finding 3

Tax increment funds and/or Development Impact Fees could be used to pay for a simple park at Wightman Street.

Mayor's Response: The Mayor agrees with this finding. Tax increment funds and/or Development Impact Fees could be used to develop Wightman Street Neighborhood Park as well as other potential park sites in the general vicinity, including the property known as "Fox Canyon."

IBA Recommendation: Join the Mayor's Response.

Finding 4

The proposed park appears to be the best use of the vacant land in Fox Canyon.

Mayor's Response: The Mayor agrees with the finding. However, it does not appear the entire site know as "Fox Canyon" could be constructed into a "developed" park due to the site constraints. The city does not own the property and as such there is no opportunity to develop the site at this time.

IBA Recommendation: Join the Mayor's Response.

GRAND JURY RECOMMENDATIONS

Recommendation 08-60: Immediately bring the different departments of the City involved in this matter to come to decision, prior to losing the opportunity to use State grant monies whether to purchase the Fox Canyon park tract and begin constructing a park there or return the state grant funds and disencumber the properties.

Mayor's Response: This recommendation has been implemented.

IBA Recommendation: Join the Mayor's Response.

Recommendation 08-61: If the decision is to not construct a park on the Fox Canyon tract, bring the same departments of the City together to evaluate whether funds are available and should be used to construct a park at Wightman Street.

Mayor's Response: Implemented. On March 27, 2007 the City Council gave direction to City staff to 1) transfer the funding allocated for Fox Canyon to the Wightman Street Neighborhood Park; and 2) the approval for the Mayor, or his representative, to request approval from the State of California Department of Parks and Recreation to amend the project location of the grant contract to the Wightman Street Neighborhood Park.

IBA Recommendation: Join the Mayor's Response, and supplement with the following:

Over the past year, the City has undertaken a public process to complete the design of the Wightman Street Neighborhood Park, applied for necessary permits, and initiated the environmental review. On July 29, 2008, the City made the environmental determination of mitigated negative declaration (MND) pursuant to the California Environmental Quality Act (CEQA), and stated that an environmental impact report would not be required. In response to the Notice of Right to Appeal Environmental Determination dated July 31, 2008, the City received an appeal.

Prior to the receipt of the appeal, the City intended to resubmit the grant proposal to the State to request the transfer of grant funds to the Wightman Street location in August 2008. If the transfer request is approved, the start of construction is planned for August 2009, with project completion to occur in March 2010. However, the appeal process is likely to delay this schedule. The City Council will consider the appeal at its meeting of September 16, 2008.

Recommendation 08-62: Decide whether to build a road in Fox Canyon.

Mayor's Response: This requires further analysis. Should the City be successful in acquiring property to build a park at the "Fox Canyon" site, a traffic study will be required to determine if the street is necessary to provide adequate access to the new park. If the traffic study determines that a road is needed, it will be built in conjunction with the site's development of a park. If a road is not needed for access for the park, it will remain in its current status as a paper street only.

IBA Recommendation: Join the Mayor's Response.



JERRY SANDERS
MAYOR

August 8, 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 "Fox Canyon and Wightman Street: A Tale of Two City Parks in Extremis".

Pursuant to California Penal Code Section 933.05(a), (b), and (c), The City of San Diego provides the following responses to the findings and recommendations in the above-entitled Grand Jury Report:

FACTS & FINDINGS:

Fact: The Fox Canyon area south of University Avenue is short 22 acres of park space.

Mayor's Response: Based on SANDAG 2007 figures, the Mid-City Community Planning area is deficient 86.70 gross acres and 137.32 useable acres of parkland. However, 11.56 useable acres are either under construction or recently acquired which will reduce the deficit to 125.76.

The City does not estimate or allocate park acreage on a neighborhood basis within a Specific Community Planning area.

The City did not establish the 22-acre park deficient number for the Fox Canyon neighborhood area.

Finding: The proposed Fox Canyon Park and Wightman Street Park would contribute greatly to a park-starved neighborhood.

Mayor's Response: The Mayor agrees with this finding.

Finding: The City of San Diego has good preliminary plans to build a park in Fox Canyon.

Mayor's Response: The City has a conceptual plan for a potential park on the property proposed for acquisition at the time the plan was developed, but a final approved General Development Plan via City Council Policy 300-33 would be required. The City of San Diego does not own the property titled "Fox Canyon Park".

Finding: Tax increment funds and/or Development Impact Fees could be used to pay for a simple park at Wightman Street.

Mayor's Response: The Mayor agrees with this finding. Tax increment funds and/or Development Impact Fees could be used to develop Wightman Street Neighborhood Park as well as the other potential park sites in the general vicinity, including the property known as "Fox Canyon."

Finding: The proposed park appears to be the best use of the vacant land in Fox Canyon.

Mayor's Response: The Mayor agrees with this finding. However, it does not appear the entire site know as "Fox Canyon" could be constructed into a "developed" park due to the site constraints. The city does not own the property and as such there is no opportunity to develop the site at this time.

RECOMMENDATIONS:

08-60: Immediately bring the different departments of the City involved in this matter together to come to a decision, prior to losing the opportunity to use State grant monies whether to purchase the Fox Canyon park tract and begin constructing a park there or return the state grant funds and disencumber the properties.

Mayor's Response: This recommendation has been implemented.

08-61: If the decision is to not construct a park on the Fox Canyon tract, bring these same departments of the City together to evaluate whether funds are available and should be used to construct a park at Wightman Street.


Mayor's Response: Implemented. On March 27, 2007 the City Council gave direction to City staff to 1) transfer the funding allocated for Fox Canyon to the Wightman Street Neighborhood Park; and 2) the approval for the Mayor, or his representative, to request approval from the State of California Department of Parks and Recreation to amend the project location of the grant contract to the Wightman Street Neighborhood Park.

08-62: *Decide whether to build a road in Fox Canyon.*

Mayor's Response: This requires further analysis. Should the City be successful in acquiring property to build a park at the "Fox Canyon" site, a traffic study will be required to determine if the street is necessary to provide adequate access to the new park. If the traffic study determines that a road is needed, it will be built in conjunction with the site's development of a park. If a road is not needed for access for the park, it will remain in its current status as a paper street only.

Please contact Stacey LoMedico, Director, Park and Recreation Department at (619) 236-6643 if you have additional questions.

Sincerely,



JERRY SANDERS
Mayor

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

RESOLUTION NUMBER R- 304076

DATE OF FINAL PASSAGE SEP 02 2008

APPROVING THE CITY COUNCIL'S RESPONSE TO THE
2007-2008 SAN DIEGO COUNTY GRAND JURY REPORT
ENTITLED "FOX CANYON AND WIGHTMAN STREET: A
TALE OF TWO CITY PARKS IN EXTREMIS."

WHEREAS, on May 15, 2008 the 2007-2008 San Diego County Grand Jury [Grand Jury] filed a report titled "Fox Canyon and Wightman Street: A Tale of Two City Parks in Extremis" [Report] that requested a response from the Mayor and City Council; 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, due to the City Council's legislative calendar, the Presiding Judge of the San Diego Superior Court granted a request for an extension of time to submit the City Council's response to the Report to September 12, 2008; and

WHEREAS, the Grand Jury requested that the Mayor and City Council respond to each of the findings and recommendations in the Report; and

WHEREAS, the Office of the Independent Budget Analyst has proposed a response to the Report as set forth in IBA Report No. 08-88 dated August 19, 2008, for the City Council's consideration; and

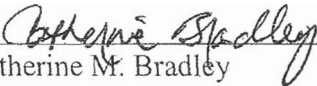
WHEREAS, under Charter section 280(a)(1) this resolution is not subject to veto by the Mayor because this matter is exclusively within the purview of the City Council and not

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 May 15, 2008, and titled "Fox Canyon and Wightman Street: A Tale of Two City Parks in Extremis," as set forth in IBA Report No. 08-88 dated August 19, 2008.

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 September 12, 2008.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Catherine M. Bradley
Chief Deputy City Attorney

CMB:als
08/20/08
Or.Dept:IBA
R-2009-175