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16 CHRIS SHILLING and SAN DIEGANS FOR OPEN GOVERNMENT

17 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
18 COUNTY OF SAN DIEGO, CENTRAL DIVISION

19 CHRIS SHILLING, an individual; SAN)
20 DIEGANS FOR OPEN GOVERNMENT, a non-)
21 profit California Corporation;)

22 Plaintiffs and Petitioners,)

23 v.)

24 CITY OF CHULA VISTA; MARY CASILLAS)
25 SALAS, in her official capacity; JOHN)
26 McCANN; in his official capacity PATRICIA)
27 AGUILAR; in her official capacity PAMELA)
28 BENSOUSSAN; in her official capacity; and)
DOES 1-10, inclusive;)

Defendants and Respondents.)

DOES 11-100, inclusive;)

Defendants and Real Parties in Interest.)

) Case No. 37-2015-00006097-CU-MC-CTL

) **VERIFIED SECOND AMENDED**
) **COMPLAINT FOR DECLARATORY AND**
) **INJUNCTIVE RELIEF AND PETITION FOR**
) **WRIT OF MANDATE**

) [IMAGED FILE]

1 Plaintiffs and Petitioners CHRIS SHILLING and SAN DIEGANS FOR OPEN GOVERNMENT
2 allege as follows:

3 **Parties**

4 1. Plaintiff/Petitioner CHRIS SHILLING (“SHILLING”), an individual, is a resident of Chula
5 Vista, California.

6 2. Plaintiff/Petitioner SAN DIEGANS FOR OPEN GOVERNMENT (“SanDOG”) is a non-
7 profit, social-advocacy organization formed and operating under the laws of the State of California.
8 SanDOG’s members reside in or near the City of Chula Vista, California. SanDOG’s members have an
9 interest in, among other things, ensuring open, accountable, and responsive government and in promoting
10 responsible decision-making.

11 3. Defendant/Respondent CITY OF CHULA VISTA (“City”) is a “local agency” within the
12 meaning of Government Code Section 54951. Defendants/Respondents JOHN MCCANN, PATRICIA
13 AGUILAR, and PAMELA BENSOUSSAN, are and at all times mentioned in this pleading were, natural
14 persons who are members of the Chula Vista City Council (“City Council”) and are being sued solely in
15 their capacities as such. Defendant/Respondent MARY CASILLAS SALAS (“Mary Salas”) is and at all
16 times mentioned in this pleading was, a natural person who is the Mayor of Chula Vista and is being sued
17 solely in her capacity as such. Defendant/Respondent STEVE MIESEN is a natural person who became a
18 member of the City Council on January 13, 2015 and is being sued solely in his capacity as such. Pursuant
19 to Chula Vista City Charter Article III, Section 300, the City Council is comprised of the Mayor and the
20 Councilmembers. The Chula Vista City Council is a “legislative body” within the meaning of Government
21 Code Section 54952.

22 4. The true names and capacities of the Defendants/Respondents identified as DOES 2 through
23 10 and DOES 11 through 100 are unknown to Plaintiffs/Petitioners, who will seek the Court’s permission
24 to amend this pleading in order to allege the true names and capacities as soon as they are ascertained.
25 Plaintiffs/Petitioners are informed and believe and on that basis allege that each of the fictitiously named
26 Respondents/Defendants 2 through 10 has jurisdiction by law over one or more aspects of the subject matter
27 of this lawsuit and that each of the fictitiously named Real Parties in Interest has some other cognizable
28 interest in the subject matter.

1 **Background Information**

2 5. Plaintiffs/Petitioners recently learned that the City has a pattern and practice of filling official
3 vacancies in a manner that violates the Ralph M. Brown Act, Government Code Section 54950 *et seq.* In
4 particular, members of the Chula Vista City Council are secretly provided information about the
5 backgrounds and qualifications of persons interested in filling the vacancy and then secretly vote on a slate
6 of candidates whom they believe should be finalists for filling the vacancy. By design, the public does not
7 get to observe this process.

8 6. The most recent manifestation of this illegal pattern and practice occurred in late 2014 and
9 early 2015. Current Chula Vista Mayor Mary Salas held office as a member of the Chula Vista City
10 Council, Seat 4, when she was elected Mayor in November 2014. When Mary Salas was sworn into office
11 as Mayor on December 9, 2014, her previous City Council seat became vacant.

12 7. On December 9, 2014, City held a special meeting. Item 4 on the agenda for the meeting
13 concerned the filling of the vacancy on the Chula Vista City Council, specifically whether the City would
14 hold a special election or the Council would appoint a person to the vacant seat. A true and correct copy
15 of the agenda is attached to this pleading as Exhibit "A."

16 8. In connection with Item 4 on the agenda for the December 9, 2014 meeting, the Chula Vista
17 City Clerk prepared a memorandum which outlined the "history of processes used for past City Council
18 appointments." A true and correct copy of this memorandum is attached hereto as Exhibit "B."

19 9. At the December 9, 2014 City Council meeting, the Council approved Resolution No. 2014-
20 241, which declared the City Council's intention to appoint a person to fill the vacant seat. A true and
21 correct unsigned copy of the Resolution No. 2014-241 is attached hereto as Exhibit "C."

22 10. At the December 9, 2014 City Council meeting, the City Council also discussed the method
23 by which the appointment would be made. There was consensus of the Council that the process would
24 consist of the following: (1) those interested in applying for appointment to the vacant seat would be
25 required to complete an application and submit a resume; (2) Councilmembers and the Mayor would submit
26 nominations to the City Clerk based on the applications received; and (3) any applicant receiving two or
27 more nominations by Councilmembers and the Mayor would be considered a "finalist" and would be invited
28 for an interview before the Council. The Council also directed the City Clerk to make the Councilmember

1 applications available until December 15, 2014, and to accept all applications until December 29, 2014.
2 A true and correct copy of the minutes for the December 9, 2014 City Council meeting is attached hereto
3 as Exhibit “D.”

4 11. On December 16, 2014, City held another special meeting, at which the City Council (i)
5 approved the City Clerk’s timeline for filling of the City Council vacancy and (ii) set a special meeting for
6 January 8, 2015, for the purpose of conducting interviews for the vacancy. A true and correct copy of the
7 agenda for the December 16, 2014 meeting is attached hereto as Exhibit “E.” A true and correct copy of the
8 minutes for the December 16, 2014 meeting is attached hereto as Exhibit “F.”

9 12. The Chula Vista City Clerk provided every City Councilmember and the Mayor copies of
10 the candidate applications. Except for the City Clerk’s selective disclosure to favored members of the press,
11 these applications were not made public. On information and belief, it is alleged that the applications were
12 sent to the City Councilmembers and the Mayor via electronic mail on or about December 31, 2015.

13 13. On or about January 5, 2015, the Councilmembers and the Mayor sent the City Clerk their
14 respective vote for which candidates would proceed to an “interview.” On information and belief, it is
15 alleged that these votes were sent to the City Clerk via electronic mail. At the time, and until approximately
16 January 28, 2015, these votes were not made available to the public.

17 14. On or about January 6, 2015, Plaintiff/Petitioner SHILLING submitted a Public Records Act
18 Request for the Councilmember votes submitted to the City Clerk on or about January 5, 2015.

19 15. On January 8, 2015, at the previously set special meeting, the City Council conducted
20 “interviews” of eight candidates for City Council. The City Council could not reach consensus on a
21 replacement to fill the vacancy and the matter was continued until the regularly scheduled meeting of
22 January 13, 2015. The City Council made an appointment to fill the City Council vacancy at the January
23 13, 2015 meeting.

24 16. On or about January 16, 2015, the City Clerk denied SHILLING’s Public Records Act
25 Request.

26 17. Believing that Defendants/Respondents’ appointment process constituted a violation of the
27 Ralph M. Brown Act (“Brown Act”) and that Defendants’/Respondents’ withholding of the City Council’s
28 January 5, 2015 votes constituted a Public Records Act violation, Plaintiffs/Petitioners caused a Notice of

1 Intent to File Suit and Demand for Cure (“Cure Request”) to be sent to Defendants/Respondents on or about
2 January 21, 2015. A true and correct copy of the Cure Request is attached hereto as Exhibit “G.”

3 18. Defendants/Respondents served Plaintiffs/Petitioners with a preliminary response requesting
4 an extension of time to consider the Cure Request on or about January 23, 2015. A true and correct copy
5 of the response to the Cure Request is attached hereto as Exhibit “H.”

6 19. On January 28, 2015, Defendants/Respondents served Plaintiffs/Petitioners with a response
7 to the Cure Request. Though it admitted no wrongdoing in denying SHILLING’s Public Records Act
8 Request, City nonetheless produced the requested documents on January 28, 2015. A true and correct copy
9 of the City’s January 28, 2015 response to the Cure Request is attached hereto as Exhibit “I.”

10 20. To date, Defendants/Respondents have not cured their Brown Act violations.

11 21. The purpose of this action is to prevent actual and threatened violations of the Brown Act
12 by Defendants/Respondents, to determine the Act’s applicability to past, present, and future actions of each
13 Defendant/Respondent, and to have any actions taken in violation of the law determined to be invalid and
14 void.

15 **Jurisdiction**

16 22. Plaintiffs/Petitioners bring this action and seek review by and relief from this Court under,
17 among other provisions of law and as applicable, Code of Civil Procedure Sections 526a, 1060 *et seq.*, and
18 1084 *et seq.*; Government Code Sections 54960 and 54960.1; and the Chula Vista City Charter and Chula
19 Vista Municipal Code.

20 23. Venue in this Court is proper because the obligations, liabilities, and violations of law alleged
21 in this pleading occurred in the City of Chula Vista.

22 24. Petitioners have no plain, speedy, adequate remedy in the ordinary course of law, since its
23 members will suffer irreparable harm as a result of the violations of the law alleged in this pleading. The
24 City Council appointment rests on Respondents’ failure to satisfy a clear, present, ministerial duty to act in
25 accordance with those laws. Even when Respondents are permitted or required by law to exercise their
26 discretion in approving matters under those laws, they remain under a clear, present, ministerial duty to
27 exercise their discretion within the limits of and in a manner consistent with those laws. Respondents had
28 the capacity and ability to fill the City Council vacancy within the limits of and in a manner consistent with

1 those laws, but Respondents have failed and refuse to do so and have exercised their discretion beyond the
2 limits of and in a manner that is not consistent with those laws.

3 25. Petitioners and SanDOG’s members have a beneficial right and interest in Respondents’
4 fulfillment of all their legal and public duties, as alleged in this pleading.

5 **FIRST CAUSE OF ACTION:**
6 **Violation of the Ralph M. Brown Act Gov Code Section 54960**
7 (Against All Respondents)

8 26. Plaintiffs/Petitioners hereby incorporate by reference all preceding paragraphs.

9 27. In enacting the Ralph M. Brown Act, Government Code Section 54950 *et seq.*, the California
10 Legislature found and declared that “the public commissions, boards and councils and the other public
11 agencies in this State exist to aid in the conduct of the people’s business. It is the intent of the law that their
12 actions be taken openly and that their deliberations be conducted openly.”

13 28. Under the Brown Act, the City of Chula Vista is a “local agency” and the City Council is a
14 “legislative body.”

15 29. Under the Brown Act, except as permitted by Government Code Section 54953, any use of
16 direct communication, personal intermediaries, or technological devices that is employed by a majority of
17 the members of the legislative body to develop a collective concurrence as to action to be taken on an item
18 by the members of the legislative body is prohibited.

19 30. Pursuant to Section 2.04.020 of the Chula Vista Municipal Code, the City Council holds
20 regular meetings in Council chambers on the first, second, third, and fourth Tuesday of each month.
21 Pursuant to Chula Vista Municipal Code Section 2.04.060, all regular and special meetings of the City
22 Council, all regular and special conferences of the City Council and the meetings of all commissions and
23 boards established by the City Council shall be open to the public. Each regular and special meeting of the
24 City Council is a “meeting” subject to the Brown Act.

25 31. The Brown Act prohibits Defendants/Respondents from participating in private meetings for
26 the purpose of developing a collective concurrence or of sharing information that could be used to develop
27 a collective concurrence.

28 32. For roughly a decade, Defendants/Respondents (and with regard to those of them who are
public officials, their predecessors) have had a pattern and practice of participating in unlawful meetings

1 and voting by secret ballots in order to fill official vacancies.

2 33. Defendants/Respondents constituting a majority of the City Council, at a meeting that was
3 not agendized, open or public, have taken action to eliminate City Council or commission appointment
4 candidates. The City's unlawful pattern and practice of deliberating and taking action at private meetings
5 in violation of the Brown Act is evidenced and described in the City Clerk's memorandum, attached hereto
6 as Exhibit "B."

7 34. Defendants/Respondents have a pattern and practice of casting secret ballots to eliminate City
8 Council or commission appointment candidates.

9 35. Defendants/Respondents had and continue to have a mandatory legal duty to refrain from
10 taking part in private, non-agendized meetings and from voting by secret ballots. The Mayor's and the
11 Councilmembers' participation in meetings that are not agendized, open, or public denies Petitioners and
12 other members of the public the information to which they are entitled under the Brown Act and other
13 provisions of law.

14 36. The Brown Act does not authorize an award of damages to redress Defendants'/Respondents'
15 past and threatened violations of the Brown Act. Accordingly, Plaintiffs/Petitioners have no plain, adequate,
16 speedy remedy at law to compensate them for Defendants'/Respondents' unlawful conduct.

17 37. An actual controversy exists between Plaintiffs/Petitioners, on the one hand, and
18 Defendants/Respondents, on the other hand, concerning their respective rights and duties under the Brown
19 Act and other applicable provisions of law. As alleged in this pleading, Plaintiffs/Petitioners contend that
20 private deliberations and actions taken at private, non-agendized meetings are a violation of Government
21 Code Section 54953 and are illegal. Plaintiffs/Petitioners further contend that such secret votes constitute
22 secret ballots in violation of Government Code Section 54953 and are therefore illegal.

23 38. Defendants/Respondents dispute Petitioners' contentions and maintain that the vacancy
24 selection process is consistent with and not prohibited by the Brown Act or any other provision of law.

25 39. Plaintiffs/Petitioners are informed, believe, and thereon allege Respondents have historically
26 and routinely used the unlawful private meeting and secret-ballot process to fill vacancies, and that, unless
27 enjoined, they intend to do so in the future if the opportunity to make an appointment arises.

28 40. Plaintiffs/Petitioners desire a judicial determination and declaration of the legality of the

1 private, secret voting to ensure that Defendants/Respondents comply with the Brown Act and all other
2 applicable laws so that members of the public have the same information that forms the basis of decisions
3 made by Defendants/Respondents as members of the City Council and the conduct of the people's business
4 be conducted openly.

5 **SECOND CAUSE OF ACTION:**
6 **Violation of the Ralph M. Brown Act Gov Code Section 54960.1**
7 (Against All Respondents)

8 41. Plaintiffs/Petitioners hereby incorporate by reference all preceding paragraphs.

9 42. Without in any way limiting the scope of Defendants'/Respondents' illegal pattern and
10 practice, Plaintiffs/Petitioners allege that the Mayor and City Councilmembers' most recent example of
11 participating in an unlawful private meeting occurred on or about January 5, 2015.

12 43. Outside of an agendized, open and public meeting, Defendants/Respondents took action to
13 eliminate approximately 36 candidates from the City Council vacancy appointment process, in violation of
14 Government Code Section 54953 and other provisions of law.

15 44. At the time, and until approximately January 28, 2015, Defendants'/Respondents' votes were
16 not made available to the public. Such votes constitute secret ballots pursuant to Government Code Section
17 54953(c)(1), among other provisions of law.

18 45. Defendants'/Respondents' votes for "finalists" constitute "actions taken" pursuant to the
19 Brown Act.

20 46. Defendants/Respondents intentionally voted in this manner in secret in order to deprive the
21 public of information that they knew or had reason to know the public was entitled to have.

22 47. To the extent that the remedies available to Plaintiffs/Petitioners could result in the Court
23 declaring that the City's latest appointment decision is declared void under the Brown Act, they took the
24 precautionary step of filing a *quo warranto* application with the California Attorney General. They did so
25 even though they do not believe that such an application was required because the Brown Act itself
26 authorizes the Court to declare such an act void, and because such remedy was authorized by the Legislature
27 long after it codified the *quo warranto* procedures in Code of Civil Procedure Section 803 *et seq.* Agreeing
28 with Plaintiffs/Petitioners, the Attorney General declined to proceed in *quo warranto* on the grounds that
the Brown Act provides a remedy independent of the *quo warranto* statutes.

Prayer

WHEREFORE, Plaintiffs and Petitioners respectfully pray for the following relief:

1. Judgment determining or declaring that Defendants/Respondents have a pattern and practice of filling official vacancies in a manner that violates the Ralph M. Brown Act in at least one way and is therefore illegal.
2. A judgment determining or declaring that Defendants/Respondents must comply fully with the Ralph M. Brown Act before any discussion may occur or action may be taken on the filling of any vacancy;
3. Judgment determining or declaring that Defendants/Respondents failed to comply fully with the Ralph M. Brown Act as it relates to the filling of the City Council vacancy resulting from the November 2014 election of Mayor Mary Salas and that any and all discussions and/or actions taken by Defendants/Respondents with regard to the filling of the vacancy violated the Act, thus rendering all such discussions and actions, including the appointment of the new Councilmember, Seat 4, null and void;
4. A judgment determining or declaring that Defendants/Respondents must comply fully with the Ralph M. Brown Act before any discussion may occur or action may be taken on the filling of the vacancy;
5. Issuance of a writ of mandate requiring Defendants/Respondents to rescind any and all action taken by the City Council in filling the vacancy unless and until Defendants/Respondents have fully complied with the Ralph M. Brown Act and all other applicable laws, as determined by this Court;
6. Injunctive relief prohibiting (1) Defendants/Respondents from further discussing or taking any further action (including but not limited to the expenditure of any public funds) in connection with any aspect of the filling of the vacancy, unless and until Defendants/Respondents have fully complied with the Ralph M. Brown Act and all other applicable laws; and (2) the newly appointed Councilmember, Seat 4, from taking any further action as a Councilmember unless and until Defendants/Respondents have fully complied with the Ralph M. Brown Act and all other applicable laws;
7. An order providing for the Court's continuing jurisdiction over this action in order to ensure that

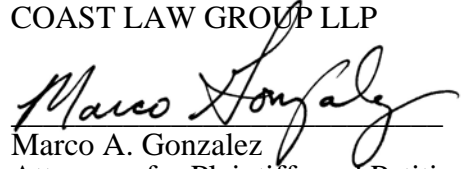
1 Defendants/Respondents comply with the Brown Act and all other applicable laws;

2 8. All attorney fees and other legal expenses incurred in the prosecution of this action; and

3 9. Any further relief that this Court may deem appropriate.

4 DATED: December 14, 2015

COAST LAW GROUP LLP



5
6 Marco A. Gonzalez
7 Attorneys for Plaintiffs and Petitioners,
8 CHRIS SHILLING and SAN DIEGANS FOR
9 OPEN GOVERNMENT

BRIGGS LAW CORPORATION



10 Cory J. Briggs
11 Attorneys for Plaintiffs and Petitioners,
12 CHRIS SHILLING and SAN DIEGANS FOR
13 OPEN GOVERNMENT

1 **VERIFICATION**

2 I, Chris Shilling, declare:

3 I have read the foregoing Verified Second Amended Complaint for Declaratory and Injunctive Relief
4 and Petition for Writ of Mandate and know the contents thereof, except as to those matters which are alleged
5 on information and belief, and as to those matters I believe them to be true.

6 I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true
7 and correct and that this verification was signed on the 14th day of December, in Chula Vista, California.

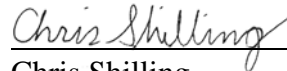
8
9
10 
11 Chris Shilling

EXHIBIT A



MEETING OF THE CITY COUNCIL

Agenda

Cheryl Cox, Mayor
Patricia Aguilar, Councilmember
Pamela Bensoussan, Councilmember
Rudy Ramirez, Councilmember
Mary Salas, Councilmember

Gary Halbert, City Manager
Glen R. Googins, City Attorney
Donna R. Norris, City Clerk

Tuesday, December 9, 2014

6:00 PM

**Council Chambers
276 4th Avenue, Building A
Chula Vista, CA 91910**

SPECIAL MEETING OF THE CITY COUNCIL

Notice is hereby given that the Mayor of the City of Chula Vista has called and will convene a Special Meeting of the City Council of the City of Chula Vista on Tuesday, December 9, 2014, at 6:00 p.m. in the Council Chambers, located at 276 Fourth Avenue, Chula Vista, California to consider the items on this agenda.

CALL TO ORDER

ROLL CALL:

Councilmembers Aguilar, Bensoussan, Ramirez, Salas and Mayor Cox

82nd AIRBORNE TO PRESENT COLORS

PLEDGE OF ALLEGIANCE TO THE FLAG LEAD BY MARISSA MICHELE HICE

NATIONAL ANTHEM PERFORMED BY MARINA INSERRA

INVOCATION BY ASSEMBLYWOMAN LORENA GONZALEZ

CONSENT CALENDAR (Item 1)

If you wish to speak on the item below, please fill out a "Request to Speak" form (available in the lobby) and submit it to the City Clerk prior to the meeting.

1. [14-0626](#) RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA RECITING THE FACT OF THE SPECIAL MUNICIPAL ELECTION HELD IN THIS CITY ON NOVEMBER 4, 2014, DECLARING THE RESULTS THEREOF, AND SUCH OTHER MATTERS AS ARE PROVIDED BY LAW

Department: City Clerk

Staff Recommendation: Council adopt the resolution.

COMMENTS IN TRIBUTE TO AND BY DEPARTING ELECTED OFFICIALS:

2. [14-0675](#) COMMENTS BY OUTGOING MAYOR CHERYL COX

COMMENTS BY OUTGOING COUNCILMEMBER RUDY RAMIREZ

OATHS OF OFFICE FOR NEWLY ELECTED AND RE-ELECTED OFFICIALS:

3. [14-0676](#) INTRODUCTION OF RE-ELECTED CITY ATTORNEY GLEN GOOGINS, OATH OF OFFICE TO BE ADMINISTERED BY SONYA MARIE GOOGINS

COMMENTS BY CITY ATTORNEY GLEN GOOGINS

INTRODUCTION OF RE-ELECTED COUNCILMEMBER PATRICIA AGUILAR, OATH OF OFFICE TO BE ADMINISTERED BY NICK AGUILAR

COMMENTS BY COUNCILMEMBER PATRICIA AGUILAR

INTRODUCTION OF NEWLY ELECTED COUNCILMEMBER JOHN McCANN, OATH OF OFFICE TO BE ADMINISTERED BY ASSEMBLYMEMBER ROCKY CHAVEZ

COMMENTS BY COUNCILMEMBER JOHN McCANN

INTRODUCTION OF NEWLY ELECTED MAYOR MARY CASILLAS SALAS, OATH OF OFFICE TO BE ADMINISTERED BY PAULA SILVA CASILLAS

COMMENTS BY MAYOR MARY CASILLAS SALAS

RECESS

CALL TO ORDER

ROLL CALL:

Councilmembers Aguilar, Bensoussan, McCann and Mayor Salas

ACTION ITEMS

If you wish to speak on the item below, please fill out a "Request to Speak" form (available in the lobby) and submit it to the City Clerk prior to the meeting.

4. [14-0699](#) CONSIDERATION OF WHETHER TO HOLD A SPECIAL ELECTION OR APPOINT A PERSON TO FILL THE VACANCY OF CITY COUNCIL SEAT NO. 4, AND, IF BY APPOINTING A PERSON, CONSIDERATION OF AND DIRECTION TO STAFF ON THE APPOINTMENT PROCESS

A. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA DECLARING THE VACANCY OF CITY COUNCIL SEAT NO. 4, AND DECLARING ITS INTENTION TO APPOINT A PERSON TO FILL THE VACANT SEAT

OR

B. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA DECLARING THE VACANCY OF CITY COUNCIL SEAT NO. 4; CALLING AND GIVING NOTICE OF A SPECIAL MUNICIPAL ELECTION TO BE HELD JUNE 2, 2015, FOR THE PURPOSE OF ELECTING ONE MEMBER OF THE CITY COUNCIL, PURSUANT TO CHULA VISTA CHARTER SECTION 303.C; REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO TO PERMIT THE REGISTRAR OF VOTERS TO CONDUCT THE ELECTION; AUTHORIZING THE CITY CLERK OR HER DULY AUTHORIZED AGENTS TO CARRY OUT THE NECESSARY PROCEDURES FOR THE ELECTION; AND APPROPRIATING FUNDS THEREFOR (4/5 VOTE REQUIRED)

AND

C. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO MATERIALS SUBMITTED TO THE ELECTORATE AT A SPECIAL MUNICIPAL ELECTION TO BE HELD TUESDAY, JUNE 2, 2015

Department: City Clerk

Staff Recommendation: Council adopt Resolution A or Resolutions B and C, and, if Resolution A is adopted, discuss and provide direction to staff regarding appointment process.

CITY MANAGER'S REPORTS

MAYOR'S REPORTS

COUNCILMEMBERS' COMMENTS

ADJOURNMENT

to the Regular City Council Meeting on December 16, 2014, at 2:00 p.m., in the Council Chambers.

EXHIBIT B



MEMO

Office of the City Clerk

DATE: December 9, 2014
TO: Honorable Mayor and Councilmembers
FROM: Donna Norris, City Clerk *DN*
SUBJECT: Appointment Processes

In the event the Council chooses to make an appointment to fill the City Council Seat 4 vacancy, I have attached for your information and consideration two documents that outline the history of processes used for past City Council appointments.



-APPOINTMENT PROCESS – INTERIM CITY COUNCILMEMBER

On August 4, 2009, the Council approved the following appointment process for selecting an Interim City Councilmember to fill Council Seat #2 until John McCann returns from military leave.

1. Applications will be available online from August 7 through August 31, 2009, at www.chulavistaca.gov and at the City Clerk's office.
2. The City Council determined opening and closing dates for applications as August 7, 2009 and August 31, 2009, after which applications will not be accepted.
3. Each applicant must submit to the City Clerk a completed application, including an Economic Interests Disclosure form and a resumé by 5:00 p.m. on August 31, 2009.
4. After August 31, 2009, all applications and resúmes will be forwarded to the Mayor and City Council.
5. The Mayor and City Council will submit an unrestricted number of name/s of applicants they want to interview by a deadline stated when applications and resúmes are forwarded to them.
6. The Mayor and City Council will submit in advance of interviews the question/s that they would like asked of the applicants.
7. Applicants receiving two or more nominations will be scheduled for interviews.
8. Applicants will be interviewed in a City Council meeting in the Council Chambers on a date selected by the City Council.
9. When interviews have ended, the City Council will deliberate in a public meeting until an applicant receives at least three votes.

DISCUSSION

In the past twenty-five years, the Council has been called upon to appoint a councilmember five times. The process used for each appointment has varied.

1981 Process – In 1981, the Council voted to take applications for one week. The application consisted of the submission of a resume to the Clerk. Twenty-six applications were received and a special council meeting was called to screen the applications. The Council took a series of votes until there were eight candidates remaining. Council agreed upon six questions to be provided to the applicants prior to the interview. The interviews were held one week later. At that meeting, the Council took a series of votes until they came to a unanimous decision.

1991 Process – In the meeting following Councilman Nader's election as Mayor, during Council comments, there was a discussion regarding the process to fill the vacancy created by Nader's election as Mayor. The Council voted to accept applications for a sixteen-day period. Interviews were held ten days after the application period closed. After the interviews were held, the Council voted in successive ballots until a candidate was selected.

1994 Process – There is no available record of how the process for this appointment was decided upon. Applications were received and each Councilmember chose three applicants for interviews. During the interviews, the applicants were to remain outside until after their interview and each Councilmember was free to ask any questions.

1995 Process – The Council discussed the process during Councilmember comments and voted to post the vacancy for a ten-day period. The Council held a special session the day following the closing of the application period and decided to interview all who had applied. Each applicant was given three minutes to speak to the Council. Interviews were scheduled for a meeting held four days later. Each Councilmember submitted five names to the Clerk and each applicant receiving two or more votes was invited back for an interview. At the beginning of the special meeting held to conduct the interviews, the Council decided each applicant would be given fifteen minutes. At the end of that meeting, the number of applicants had been reduced to six. A special meeting was held the next week to interview the remaining six applicants. Again, each applicant was given fifteen minutes to address the Council (a five-minute presentation and ten minutes for questions).

2005 Process – Council held a special meeting to declare the vacancy on the Council. Applications were received for one week and then the City Council submitted to the City Clerk the applicants that the member wanted to interview. The candidates that were selected by at least two Councilmembers were interviewed by the City Council. The Council had a special meeting to interview and select an appointee. The applications included a resume, information on potential conflicts of interest, and one to two letters of recommendation.

Charter Review Commission

Process For Selecting Districting Commission Members

May 28, 2014

A. Initial Screening: Getting from 25 to 15

1. Each Commissioner reviews all applications and ranks the applications in order of most-qualified (i.e., 1-25). Review must be based on the four criteria specified in the Charter and Ordinance:
 - a. Relevant knowledge/Demonstrated analytic ability
 - b. Demonstrated ability to serve impartially in a non-partisan role
 - c. Experience in public communication/outreach
 - d. Experience in civic and/or volunteer activities in City of Chula Vista

Consideration must also be given to geographic, ethnic, racial and gender diversity.

2. Each Commissioner submits its rankings (1-25) to the City Clerk for compilation.
3. The City Clerk compiles the rankings to determine the top 15 to move on to the next round. (**For example:** If “1” is the highest rank and “25” is the lowest, the 15 candidates with the “lowest” point totals would be selected.) The City’s Human Resources staff reviews the compiled results for diversity analysis.
4. The Charter Review Commission convenes a public meeting. City staff presents results of rankings and makes recommendations as to whether the list of 15 should be expanded based on the Human Resources staff’s diversity analysis.
5. The Charter Review Commission considers staff’s recommendations and determines the final list of applicants to be interviewed.

B. Interview Process

1. Public Meeting. Interviews shall be held over two noticed public meetings. Each of the final applicants (the top 15, or more if list is expanded pursuant to A., above) shall be invited to interview during one

of the meetings. These shall be the candidates for appointment to the Districting Commission.

2. Candidate Statement.

- i. Each candidate will be invited to make a statement to the full Commission, which will be considered by the Commission in evaluating the candidates based on the criteria set forth in A.1., above.
- ii. The Commission shall be allotted five minutes to give their statements. Candidates will be asked to include within their statements a response to the following question: "Why do you want to be on the Districting Commission?"
- iii. Commissioners may ask follow-up questions immediately following each candidate's statement (follow up questions should be for clarification purposes only).
- iv. As a courtesy, candidates will be asked to wait outside during the statements of other candidates.
- v. Participation in this interview process is mandatory. If a candidate does not attend the public meeting, the candidate will not be given further consideration for inclusion in the Districting Commission. Notwithstanding the foregoing, if a candidate is unable to participate in the interview process due to unforeseen or emergency circumstances, the candidate may request that the Commission waive the interview requirement. The Commission shall consider all such requests and, by majority vote of the Commission, may waive the interview requirement and allow the candidate to continue to be considered for inclusion in the Districting Commission.

3. Public Comment. A public comment period will be permitted at each meeting after all candidate statements are concluded (public comment will be limited to 3 minutes per person).

C. Charter Review Commission Selection of 10 from list of 15 (or more)

1. After the conclusion of the second public meeting, each Commissioner will be given the opportunity to vote for five candidates on a voting sheet, which shall be handed to the City Clerk and tabulated.
2. Each candidate that receives four or more votes will be included in the pool of ten.
3. The Commission will repeat the voting process until ten candidates are selected. (For example, if after first round of voting, two are selected and eight openings remain, in the second round, each

Commissioner would vote for another five candidates, and so on until ten are selected. If two openings remain, each Commissioner would vote for another two candidates.)

4. The Charter Review Commission members should keep in mind the overarching diversity goals diversity when selecting the candidates for the pool of 10.

D. City Clerk Random Selection of First 4 (out of 10) DCs

1. Once there are ten candidates, the City Clerk shall randomly select four candidates from those ten. (She will probably draw names “out of a hat.”) This shall be done at the meeting immediately following the selection of the pool of ten.
2. The City Clerk will administer the oath to the four selected candidates.

E. Districting Commission Selection of Final 3 (out of remaining 6) DCs

The Districting Commission will undertake the process of selecting three additional members from the remaining six candidates.

EXHIBIT C

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CHULA VISTA DECLARING THE VACANCY OF CITY
COUNCIL SEAT NO. 4, AND DECLARING ITS INTENTION
TO APPOINT A PERSON TO FILL THE VACANT SEAT

WHEREAS, revisions to the Chula Vista Charter were submitted to and ratified by the voters of the City of Chula Vista on November 4, 2014, relating to, among other changes, City Council vacancies as described in section 303; and

WHEREAS, under the provisions of Chula Vista Charter section 303.A, a vacancy occurs when a current office holder is elected to another seat on the City Council and the vacancy becomes effective on the date on which the current office holder is sworn into another office; and

WHEREAS, Mary Salas held office as Member of the City Council, Seat 4, and was elected to the seat of Mayor at the election of November 4, 2014 and was sworn into office as Mayor on December 9, 2014, therefore, City Council Seat No. 4 became vacant upon Mayor Salas taking her oath of office; and

WHEREAS, under the new provisions of Chula Vista Charter section 303.C, the City Council has decided to appoint a person to fill the vacant seat; and

WHEREAS, under the new provisions of Chula Vista Charter section 303.C, if the City Council is unable to make an appointment within 45 days of December 9, 2014, the Council's power to appoint is terminated and the Council shall call a special election pursuant to City Charter section 303.C.2.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chula Vista, that it does hereby declare the vacancy of City Council Seat No. 4, and declares its intention to appoint a person to fill the vacant seat.

Presented by

Approved as to form by

Donna R. Norris, CMC
City Clerk

Glen R. Googins
City Attorney

EXHIBIT D

City of Chula Vista

Meeting Minutes - Final

Tuesday, December 9, 2014

6:00 PM

Council Chambers
276 4th Avenue, Building A
Chula Vista, CA 91910

SPECIAL MEETING OF THE CITY COUNCIL

CALL TO ORDER

A Special Meeting of the City Council of the City of Chula Vista was called to order at 6:01 p.m. in the Council Chambers, located in City Hall, 276 Fourth Avenue, Chula Vista, California.

ROLL CALL:

Present: Deputy Mayor Aguilar, Councilmember Bensoussan, Councilmember Ramirez, Councilmember Salas, and Mayor Cox

Also Present: City Manager Halbert, City Attorney Googins, City Clerk Norris, and Assistant City Clerk Bigelow

82nd AIRBORNE TO PRESENT COLORS

The 82nd Airborne presented the colors.

PLEDGE OF ALLEGIANCE TO THE FLAG LEAD BY MARISSA MICHELE HICE

Marissa Michele Hice led the Pledge of Allegiance.

NATIONAL ANTHEM PERFORMED BY MARINA INSERRA

Marina Inserra performed the National Anthem.

INVOCATION BY ASSEMBLYWOMAN LORENA GONZALEZ

Assemblywoman Gonzalez offered the invocation.

- * [14-0711](#) PRESENTATION BY CHULA VISTA ANIMAL CARE FACILITY ANIMAL ADOPTION COUNSELOR LINDA SEPTON OF ZOEY, A DOG AVAILABLE FOR ADOPTION AT THE FACILITY

Animal Care Facility Administrator Anton presented Zoey, a dog available for adoption at the Animal Care Facility.

CONSENT CALENDAR (Item 1)

1. [14-0626](#) RESOLUTION NO. 2014-240 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA RECITING THE FACT OF THE SPECIAL MUNICIPAL ELECTION HELD IN THIS CITY ON NOVEMBER 4, 2014, DECLARING THE RESULTS THEREOF, AND SUCH OTHER MATTERS AS ARE PROVIDED BY LAW

ACTION: A motion was made by Mayor Cox, seconded by Councilmember Salas, that Resolution No. 2014-240 be adopted, heading read, text waived. The motion carried by the following vote:

Yes: 5 - Aguilar, Bensoussan, Ramirez, Cox and Salas

No: 0

Abstain: 0

COMMENTS IN TRIBUTE TO AND BY DEPARTING ELECTED OFFICIALS:

- 2. [14-0675](#) COMMENTS BY OUTGOING MAYOR CHERYL COX
COMMENTS BY OUTGOING COUNCILMEMBER RUDY RAMIREZ

The following members of the public spoke in tribute to outgoing elected officials:

- Claudia Valenzuela, representing San Diego Gas & Electric
- Cindy Gompper-Graves, representing the South County Economic Development Council
- Ben Vallejos and Susan Fuller, representing the Living Coast Discovery Center
- Andrew Yuen, representing the San Diego National Wildlife Refuge
- Pamela Bensoussan, Councilmember
- John Hess, representing the International Association of Fire Fighters
- Melinda Nish, representing the Southwestern Community College District

Mayor Cox reflected on her past term in office.

Councilmember Ramirez reflected on his past term in office.

OATHS OF OFFICE FOR NEWLY ELECTED AND RE-ELECTED OFFICIALS:

- 3. [14-0676](#) INTRODUCTION OF RE-ELECTED CITY ATTORNEY GLEN GOOGINS, OATH OF OFFICE TO BE ADMINISTERED BY SONYA MARIE GOOGINS

COMMENTS BY CITY ATTORNEY GLEN GOOGINS

INTRODUCTION OF RE-ELECTED COUNCILMEMBER PATRICIA AGUILAR, OATH OF OFFICE TO BE ADMINISTERED BY NICK AGUILAR

COMMENTS BY COUNCILMEMBER PATRICIA AGUILAR

INTRODUCTION OF NEWLY ELECTED COUNCILMEMBER JOHN McCANN, OATH OF OFFICE TO BE ADMINISTERED BY ASSEMBLYMEMBER ROCKY CHAVEZ

COMMENTS BY COUNCILMEMBER JOHN McCANN

INTRODUCTION OF NEWLY ELECTED MAYOR MARY CASILLAS SALAS, OATH OF OFFICE TO BE ADMINISTERED BY PAULA SILVA CASILLAS

COMMENTS BY MAYOR MARY CASILLAS SALAS

Sonia Marie Googins administered the ceremonial oath of office to City Attorney Googins. City Clerk Norris presented him with a certificate of election.

City Attorney Googins reflected on his past term in office and spoke about upcoming events and issues.

Nick Aguilar administered the ceremonial oath of office to Councilmember Aguilar. City Clerk Norris presented her with a certificate of election.

Councilmember Aguilar reflected on her past term in office and spoke about upcoming events and issues.

Assemblymember Chavez administered the ceremonial oath of office to Councilmember McCann. City Clerk Norris presented him with a certificate of election.

Councilmember McCann spoke regarding upcoming events and issues.

Paula Silva Casillas administered the ceremonial oath of office to Mayor Salas. City Clerk Norris presented her with a certificate of election.

Mayor Salas reflected on her past term in office and spoke about upcoming events and issues.

RECESS

Mayor Salas recessed the meeting at 7:41 p.m. The Council reconvened at 8:28 p.m., with all members present.

CALL TO ORDER

At 8:28 p.m., Mayor Salas called the meeting to order.

ROLL CALL:

Present: Deputy Mayor Aguilar, Councilmember Bensoussan, Councilmember McCann and Mayor Salas

ACTION ITEMS

4. [14-0699](#) CONSIDERATION OF WHETHER TO HOLD A SPECIAL ELECTION OR APPOINT A PERSON TO FILL THE VACANCY OF CITY COUNCIL SEAT NO. 4, AND, IF BY APPOINTING A PERSON, CONSIDERATION OF AND DIRECTION TO STAFF ON THE APPOINTMENT PROCESS

A. RESOLUTION NO. 2014-241 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA DECLARING THE VACANCY OF CITY COUNCIL SEAT NO. 4, AND DECLARING ITS INTENTION TO APPOINT A PERSON TO FILL THE VACANT SEAT

OR

B. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA DECLARING THE VACANCY OF CITY COUNCIL SEAT NO. 4; CALLING AND GIVING NOTICE OF A SPECIAL MUNICIPAL ELECTION TO BE HELD JUNE 2, 2015, FOR THE PURPOSE OF ELECTING ONE MEMBER OF THE CITY COUNCIL, PURSUANT TO CHULA VISTA CHARTER SECTION 303.C; REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO TO PERMIT THE REGISTRAR OF VOTERS TO CONDUCT THE ELECTION; AUTHORIZING THE CITY CLERK OR HER DULY AUTHORIZED AGENTS TO CARRY OUT THE NECESSARY PROCEDURES FOR THE ELECTION; AND APPROPRIATING FUNDS THEREFOR (4/5 VOTE REQUIRED)

AND

C. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO MATERIALS SUBMITTED TO THE ELECTORATE AT A SPECIAL MUNICIPAL ELECTION TO BE HELD TUESDAY, JUNE 2, 2015

City Clerk Norris presented information on the item.

Mark Liuag, Chula Vista resident, spoke in support of Council appointing a person to fill the vacancy on the City Council.

Council discussion ensued on the method by which the appointment would be made. There was consensus of the Council that: those interested in applying for appointment to the vacant seat would be required to complete an application and submit a resume; Councilmembers would submit nominations to the City Clerk based on the applications received; any applicant receiving two or more nominations by Councilmembers would be considered a "finalist" and would be invited for an interview before the Council; and all finalists would be required to complete an economic interests disclosure form.

Hector Gastelum, Chula Vista resident, spoke in support of holding a special election to fill the vacant seat.

ACTION: A motion was made by Deputy Mayor Aguilar, seconded by Councilmember McCann, that Resolution No. 2014-241 (Item 4.A) be adopted, heading read, text waived, that the City Clerk be directed to make the Councilmember application available by December 15, 2014, and that the applications be accepted until December 29, 2014. The motion carried by the following vote:

Yes: 4 - Aguilar, Bensoussan, McCann and Salas

No: 0

Abstain: 0

CITY MANAGER'S REPORTS

City Manager Halbert reported that the Police Department had received a grant from the federal government in the amount of \$180,000 to improve security in the Police station lobby and implement a training simulator. He also stated that the Development Services Department had approved construction drawings for the construction of Heritage Road from Olympic Parkway to Main Street and that the project was slated to be completed by June 2016.

MAYOR'S REPORTS

Mayor Salas expressed her gratitude to the residents of Chula Vista for electing her to serve as Mayor and spoke regarding her upcoming term.

COUNCILMEMBERS' COMMENTS

Deputy Mayor Aguilar spoke in support of the Council considering changing the time of regular City Council meetings. Mayor Salas stated an item would be on the next Council agenda to allow the Council to discuss the issue.

Councilmember Bensoussan congratulated Mayor Salas, Deputy Mayor Aguilar, Councilmember McCann and City Attorney Googins on the election or reelection to their respective offices.

Councilmember McCann thanked those who supported him in the election and also during his recovery following a car accident.

ADJOURNMENT

At 9:07 p.m., Mayor Salas adjourned the meeting to the Regular City Council Meeting on December 16, 2014, at 2:00 p.m., in the Council Chambers.

Kerry K. Bigelow, Assistant City Clerk

EXHIBIT E



MEETING OF THE CITY COUNCIL

Agenda

Mary Casillas Salas, Mayor
Patricia Aguilar, Councilmember
Pamela Bensoussan, Councilmember
John McCann, Councilmember

Gary Halbert, City Manager
Glen R. Googins, City Attorney
Donna R. Norris, City Clerk

Tuesday, December 16, 2014

2:00 PM

Council Chambers
276 4th Avenue, Building A
Chula Vista, CA 91910

SPECIAL MEETING OF THE HOUSING AUTHORITY
MEETING JOINTLY WITH THE CITY COUNCIL OF THE CITY OF CHULA VISTA

REVISED 12/12/2014

Notice is hereby given that the Mayor of the City of Chula Vista has called and will convene Special Meeting of the Housing Authority meeting jointly with the City Council on Tuesday, December 16, 2014, at 2:00 p.m. in the Council Chambers, located at 276 Fourth Ave, Bldg A, Chula Vista, California to consider items on this agenda.

CALL TO ORDER

ROLL CALL:

Councilmembers Aguilar, Bensoussan, McCann and Mayor Salas

PLEDGE OF ALLEGIANCE TO THE FLAG AND MOMENT OF SILENCE

SPECIAL ORDERS OF THE DAY

- A. 14-0709 OATHS OF OFFICE
Nancy Sedgwick, Resource Conservation Commission
Jorge Marroquin and Jerry Munoz, Safety Commission
B. 14-0654 INTRODUCTION BY KELLEY BACON, DEPUTY CITY MANAGER, OF EMPLOYEE OF THE MONTH OLGA BERDIAL, SPECIAL EVENTS COORDINATOR

- C. [14-0694](#) PRESENTATION OF A PROCLAMATION TO CHULA VISTA POLICE DEPARTMENT CAPTAIN GARY FICACCI ON 26 YEARS OF SERVICE TO THE CITY OF CHULA VISTA
- D. [14-0618](#) PRESENTATION BY PUBLIC WORKS RECYCLING SPECIALIST MANUEL MEDRANO AND COMPUTERS 2 SAN DIEGO KIDS EXECUTIVE DIRECTOR CHERI PIERRE PRESENTING COMPUTER DONATIONS TO SOUTH BAY COMMUNITY SERVICES' YOUTH IN TRANSITION PROGRAM
- E. [14-0697](#) PRESENTATION BY DR. EMERALD RANDOLPH REGARDING THE 2014 CHRISTMAS IN OCTOBER PROGRAM IN THE CITY OF CHULA VISTA
- F. [14-0718](#) PRESENTATION OF STARLIGHT PARADE AWARDS

CONSENT CALENDAR (Items 1 - 15)

The Council will enact the Consent Calendar staff recommendations by one motion, without discussion, unless a Councilmember, a member of the public, or staff requests that an item be removed for discussion. If you wish to speak on one of these items, please fill out a "Request to Speak" form (available in the lobby) and submit it to the City Clerk prior to the meeting. Items pulled from the Consent Calendar will be discussed immediately following the Consent Calendar.

1. [14-0712](#) APPROVAL OF MINUTES of December 2, and December 9, 2014.

Staff Recommendation: Council approve the minutes.

2. [14-0701](#) A. ORDINANCE OF THE CITY OF CHULA VISTA APPROVING THE SECTIONAL PLANNING AREA (SPA) PLANNED COMMUNITY DISTRICT REGULATIONS FOR OTAY RANCH VILLAGE THREE NORTH AND A PORTION OF FOUR (SECOND READING AND ADOPTION)
- B. ORDINANCE OF THE CITY OF CHULA VISTA APPROVING THE SECTIONAL PLANNING AREA (SPA) PLANNED COMMUNITY DISTRICT REGULATIONS FOR OTAY RANCH VILLAGE EIGHT EAST (SECOND READING AND ADOPTION)

C. ORDINANCE OF THE CITY OF CHULA VISTA APPROVING THE SECTIONAL PLANNING AREA (SPA) PLANNED COMMUNITY DISTRICT REGULATIONS FOR OTAY RANCH VILLAGE TEN (SECOND READING AND ADOPTION)

Department: Development Services Department

Staff Recommendation: Council adopt the ordinances.

3. [14-0702](#) A. ORDINANCE OF THE CITY OF CHULA VISTA APPROVING A FIRST AMENDMENT TO THE RESTATED AND AMENDED PRE-ANNEXATION DEVELOPMENT AGREEMENT BETWEEN SSBT LCRE V, LLC AND THE CITY OF CHULA VISTA (FORMER SNMB DEVELOPMENT AGREEMENT) (SECOND READING AND ADOPTION)

B. ORDINANCE OF THE CITY OF CHULA VISTA APPROVING A FIRST AMENDMENT TO THE RESTATED AND AMENDED PRE-ANNEXATION DEVELOPMENT AGREEMENT BETWEEN SSBT LCRE V, LLC AND THE CITY OF CHULA VISTA (FORMER JEWELS OF CHARITY DEVELOPMENT AGREEMENT) (SECOND READING AND ADOPTION)

Department: Development Services Department

Staff Recommendation: Council adopt the ordinances.

4. [14-0667](#) REPORT REGARDING THE DEVELOPMENT IMPACT FEE, PARKLAND ACQUISITION AND DEVELOPMENT FEE, AND TRUNK SEWER CAPITAL RESERVE FUNDS FOR THE FISCAL YEAR ENDED JUNE 30, 2014

Department: Finance Department

Staff Recommendation: Council receive the report.

5. [14-0682](#) RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ACCEPTING \$179,239 FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY AND APPROPRIATING SAID FUNDS TO THE FEDERAL GRANTS FUND FOR THE STATE HOMELAND SECURITY PROGRAM (4/5 VOTE REQUIRED)

Department: Police Department

Staff Recommendation: Council adopt the resolution.

6. [14-0683](#) RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ACCEPTING \$500,000 FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY, AUTHORIZING THE POLICE DEPARTMENT TO PURCHASE RADIO EQUIPMENT FROM AVIAT U.S., INC. VIA THE COUNTY OF SAN DIEGO'S CONTRACT NUMBER 547601 AND APPROPRIATING SAID FUNDS TO THE FEDERAL GRANTS FUND FOR THE URBAN AREA SECURITY INITIATIVE (4/5 VOTE REQUIRED)

Department: Police Department

Staff Recommendation: Council adopt the resolution.

7. [14-0689](#) A. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA SETTING THE ANNUAL SALARY FOR THE ELECTED CITY ATTORNEY AT \$184,610 EFFECTIVE DECEMBER 9, 2014

B. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AMENDING THE COMPENSATION SCHEDULE AND CLASSIFICATION PLAN TO REFLECT THE ADDITION OF THE DIRECTOR OF HUMAN RESOURCES POSITION TITLE; CHANGE IN THE BARGAINING UNIT DESIGNATION FOR THE SENIOR POLICE TECHNOLOGY SPECIALIST; AMENDING THE AUTHORIZED POSITION COUNT IN THE HUMAN RESOURCES DEPARTMENT WITH NO NET CHANGE IN AUTHORIZED STAFFING; AND APPROPRIATING FUNDS THEREFOR (4/5 VOTE REQUIRED)

C. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE REVISED FISCAL YEAR 2014/2015 COMPENSATION SCHEDULE AS REQUIRED BY CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 570.5

Department: Human Resources Department

Staff Recommendation: Council adopt the resolutions.

8. [14-0611](#) RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA REQUESTING THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM APPROVE THE USE OF CITY OF CHULA VISTA PRIOR-YEAR UNALLOCATED TRANSPORTATION DEVELOPMENT ACT ARTICLE 4.0 FUNDS IN THE AMOUNT OF \$261,556 FOR THE REHABILITATION OF THE PUBLIC WORKS CENTER/TRANSIT YARD PAVEMENT; ESTABLISHING A NEW CAPITAL IMPROVEMENT PROJECT "PUBLIC WORKS CENTER/TRANSIT YARD PAVEMENT PROJECT" (GG224); AND APPROPRIATING \$261,556 OF TRANSPORTATION DEVELOPMENT ACT FUNDS TO THE GG224 PROJECT (4/5 VOTE REQUIRED)

Department: Public Works Department

Staff Recommendation: Council adopt the resolution.

9. [14-0666](#) RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AMENDING THE FISCAL YEAR 2015 BUDGET TO APPROPRIATE \$21,881 OF UNSPENT SOLAR PHOTOVOLTAIC PROJECT (PHASE 2) FUNDS AND \$3,124 OF UNANTICIPATED REVENUE FROM THE COOL CALIFORNIA CHALLENGE IN ORDER TO SUPPORT ADDITIONAL ENERGY EFFICIENCY AND SUSTAINABILITY PROJECTS (4/5 VOTE REQUIRED)

Department: Public Works Department

Staff Recommendation: Council adopt the resolution.

10. [14-0681](#) RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AMENDING THE FISCAL YEAR 2014/2015 CIP BUDGET BY APPROPRIATING \$200,620 FROM THE AVAILABLE BALANCE OF THE TDIF FUND AND \$2,001,840 OF HIGHWAY BRIDGE PROGRAM (HBP) FUNDS BASED ON UNANTICIPATED REVENUE TO CIP NO. STL-384 (4/5 VOTE REQUIRED)

Department: Public Works Department

Staff Recommendation: Council adopt the resolution.

11. [14-0686](#) RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROPRIATING \$39,636.40 FROM THE OPEN SPACE DISTRICT 31 FUND FOR THE REPLACEMENT OF THE TOT LOT LOCATED ON SAINT CLAIRE DRIVE IN OPEN SPACE DISTRICT 31 (4/5 VOTE REQUIRED)

Department: Public Works Department

Staff Recommendation: Council adopt the resolution.

12. [14-0696](#) RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE AMENDED AGREEMENT WITH THE COUNTY OF SAN DIEGO PROBATION DEPARTMENT FOR THE PROVISION OF WORK CREWS, AND AUTHORIZING THE PURCHASING AGENT TO APPROVE AND EXECUTE AMENDMENTS TO THE AGREEMENT UNTIL TERMINATED BY MUTUAL CONSENT

Department: Public Works Department

Staff Recommendation: Council adopt the resolution.

13. [14-0700](#) RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AMENDING THE CONTRACT FOR CITYWIDE STREET SWEEPING SERVICES TO CANNON PACIFIC SERVICES, INC. TO INCREASE THE COST OF SWEEPING CITY PARKING LOTS

Department: Public Works Department

Staff Recommendation: Council adopt the resolution.

14. [14-0704](#) RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AMENDING A MEMORANDUM OF UNDERSTANDING WITH THE SAN DIEGO ASSOCIATION OF GOVERNMENTS REGARDING AN ENVIRONMENTAL DOCUMENT FOR LIGHT RAIL TROLLEY GRADE SEPARATIONS AND STATIONS TO THE BLUE LINE LIGHT RAIL, AUTHORIZING THE CITY ATTORNEY TO MAKE SUCH NON-SUBSTANTIVE CHANGES DEEMED NECESSARY FOR THE BENEFIT OF THE CITY, AND AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE AGREEMENT

Department: Public Works Department

Staff Recommendation: Council adopt the resolution.

15. [14-0599](#) RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE SPONSORSHIP OF THE 2015 HARBORFEST EVENT; APPROVING THE AGREEMENT WITH MCFARLANE PROMOTIONS TO COORDINATE CHULA VISTA HARBORFEST 2015; AND APPROVING AN APPROPRIATION FROM THE GENERAL FUND OF \$7,500 FOR INITIAL PAYMENT TO MCFARLANE PROMOTIONS (4/5 VOTE REQUIRED)

Department: City Manager

Staff Recommendation: Council adopt the resolution.

ITEMS REMOVED FROM THE CONSENT CALENDAR

PUBLIC COMMENTS

Persons speaking during Public Comments may address the Council on any subject matter within the Council's jurisdiction that is not listed as an item on the agenda. State law generally prohibits the Council from discussing or taking action on any issue not included on the agenda, but, if appropriate, the Council may schedule the topic for future discussion or refer the matter to staff. Comments are limited to three minutes.

PUBLIC HEARINGS

The following item(s) have been advertised as public hearing(s) as required by law. If you wish to speak on any item, please fill out a "Request to Speak" form (available in the lobby) and submit it to the City Clerk prior to the meeting.

16. [14-0628](#) CONSIDERATION OF APPROVAL OF A TENTATIVE SUBDIVISION MAP TO SUBDIVIDE A .98-ACRE SITE INTO FIVE (5) SINGLE-FAMILY LOTS FOR INDIVIDUAL OWNERSHIP AT 386 DATE STREET; APPLICANT: IBERIA PROJECT MANAGEMENT, LLC

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING TENTATIVE SUBDIVISION MAP PCS-13-01 TO SUBDIVIDE A .98-ACRE SITE INTO FIVE (5) SINGLE-FAMILY LOTS FOR INDIVIDUAL OWNERSHIP LOCATED AT 386 DATE STREET

Department: Development Services Department

Staff Recommendation: Council conduct the public hearing and adopt the resolution.

17. [14-0684](#) CONSIDERATION OF THE ISSUANCE OF TAX-EXEMPT OBLIGATIONS WITH RESPECT TO PROPOSED FINANCING OF THE DEVELOPMENT OF A 126-UNIT SENIOR AND 84-UNIT AFFORDABLE HOUSING DEVELOPMENT IN THE MILLENIA COMMUNITY

A. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY HOUSING REVENUE BONDS OF THE HOUSING AUTHORITY OF THE CITY OF CHULA VISTA FOR MILLENIA SENIOR AFFORDABLE APARTMENTS

B. RESOLUTION OF THE HOUSING AUTHORITY OF THE CITY OF CHULA VISTA REGARDING ITS INTENTION TO ISSUE TAX-EXEMPT OBLIGATIONS FOR A PROPOSED DEVELOPMENT OF THE MILLENIA SENIOR AFFORDABLE APARTMENTS

C. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY HOUSING REVENUE BONDS OF THE HOUSING AUTHORITY OF THE CITY OF CHULA VISTA FOR MILLENIA AFFORDABLE APARTMENTS

D. RESOLUTION OF THE HOUSING AUTHORITY OF THE CITY OF CHULA VISTA REGARDING ITS INTENTION TO ISSUE TAX-EXEMPT OBLIGATIONS FOR A PROPOSED DEVELOPMENT OF THE MILLENIA AFFORDABLE APARTMENTS

Department: Development Services Department

Staff Recommendation: Council conduct the public hearing, and adopt resolutions A and C; Authority adopt resolutions B and D.

18. [14-0640](#) CONSIDERATION OF AMENDMENTS TO THE GROWTH MANAGEMENT ORDINANCE (CHAPTER 19.09 OF THE CHULA VISTA MUNICIPAL CODE), AND THE GROWTH MANAGEMENT PROGRAM IMPLEMENTATION MANUAL; TO REPLACE THE THRESHOLD STANDARDS, GROWTH MANAGEMENT OVERSIGHT COMMITTEE POLICY AND THE GROWTH MANAGEMENT PROGRAM DOCUMENT

Department: Development Services Department

Staff Recommendation: Council open the public hearing and continue the item to January 13, 2015.

19. [14-0656](#) CONSIDERATION OF AMENDING CHAPTER 12 (SEWER FEES) OF THE CITY'S MASTER FEE SCHEDULE

Department: Public Works Department

Staff Recommendation: Council open the public hearing and continue the item to January 6, 2015.

BOARD AND COMMISSION REPORTS

20. [14-0591](#) RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING A CONSULTANT AGREEMENT WITH Q2 DATA & RESEARCH, LLC TO PROVIDE DISTRICT MAPPING CONSULTANT SERVICES TO THE DISTRICTING COMMISSION; APPROVING THE PROPOSED DISTRICTING COMMISSION BUDGET, AND APPROPRIATING FUNDS, ACCORDINGLY (4/5 VOTE REQUIRED)

Department: City Attorney

Staff Recommendation: Council adopt the resolution.

CITY MANAGER'S REPORTS

MAYOR'S REPORTS

21. [14-0664](#) Appointment of Deputy Mayor

22. [14-0665](#) APPOINTMENT OF CITY COUNCILMEMBERS TO OUTSIDE AGENCIES:
- Chula Vista Veterans Home Support Foundation - Member
 - Chula Vista Veterans Home Support Foundation - Alternate
 - International Council for Local Environmental Initiatives (ICLEI) - Environmental Lead
 - International Council for Local Environmental Initiatives (ICLEI) - Alternate
 - League of California Cities, San Diego Division - Member
 - League of California Cities, San Diego Division - Alternate
 - Metropolitan Transit System Board of Directors (MTS) - Member
 - Metropolitan Transit System Board of Directors (MTS) - Alternate
 - Metropolitan Wastewater Commission (Metro) - Member
 - Metropolitan Wastewater Commission (Metro) - Alternate
 - Otay Valley Regional Park (OVRP) Policy Committee and Preserve Owner Manager (POM) - Member
 - Otay Valley Regional Park (OVRP) Policy Committee and Preserve Owner Manager (POM) - Alternate
 - San Diego Association of Governments (SANDAG) Board of Directors - Member
 - San Diego Association of Governments (SANDAG) Board of Directors - Alternates (2)
 - San Diego Association of Governments (SANDAG) Bayshore Bikeway Committee
 - South County Economic Development Council (EDC) - Member
 - South County Economic Development Council (EDC) - Alternate
23. [14-0714](#) CONSIDERATION OF HOLDING A SPECIAL MEETING TO CONDUCT INTERVIEWS TO FILL THE VACANCY ON THE CITY COUNCIL, AND DISCUSSION AND POSSIBLE DIRECTION TO STAFF REGARDING RELATED PROCESSES
24. [14-0695](#) COUNCIL DISCUSSION AND POSSIBLE ACTION REGARDING CHANGING THE TIME OF REGULAR CITY COUNCIL MEETINGS

COUNCILMEMBERS' COMMENTS

ADJOURNMENT

to the Regular City Council Meeting on January 6, 2015, at 2:00 p.m., in the Council Chambers.

Materials provided to the City Council related to any open-session item on this agenda are available for public review at the City Clerk's Office, located in City Hall at 276 Fourth Avenue, Building A, during normal business hours.

*In compliance with the
AMERICANS WITH DISABILITIES ACT*

The City of Chula Vista requests individuals who require special accommodations to access, attend, and/or participate in a City meeting, activity, or service, contact the City Clerk's Office at (619) 691-5041 (California Relay Service is available for the hearing impaired by dialing 711) at least forty-eight hours in advance of the meeting.

Sign up at www.chulavistaca.gov to receive email notifications when City Council agendas are published online.

NOTICE OF REVIEW AND PENDING APPROVAL OF FINAL MAP

In accordance with California Government Code Section 66458(d), notice is hereby given that the City Engineer has reviewed and, immediately following this City Council meeting of December 16, 2014, will approve the following final map:

Chula Vista Tract No. 12-02, Otay Ranch Village 2 North, Neighborhood R-10A, 24 multi-family units located on 1.069 acres south of Olympic Parkway and west of La Media Road.

Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.*
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.*
- (3) The map is technically correct.*

Said map will be finalized and recorded, unless an interested party files a valid appeal of the City Engineer's action to City Council no later than 2:00 p.m., 10 calendar days from the date of this City Council meeting. A valid appeal must identify the improper/incorrect finding and the basis for such conclusion.

If you have any questions about the map approval findings or need additional information about the map or your appeal rights, please feel free to contact Tom Adler at (619) 409-5483.

EXHIBIT F

City of Chula Vista

Meeting Minutes - Final

Tuesday, December 16, 2014

2:00 PM

Council Chambers
276 4th Avenue, Building A
Chula Vista, CA 91910

SPECIAL MEETING OF THE HOUSING AUTHORITY MEETING JOINTLY WITH THE CITY COUNCIL OF THE CITY OF CHULA VISTA

CALL TO ORDER

A Special Meeting of the Housing Authority meeting jointly with the City Council of the City of Chula Vista was called to order at 2:06 p.m. in the Council Chambers, located in City Hall, 276 Fourth Avenue, Chula Vista, California.

ROLL CALL:

Present: Deputy Mayor Aguilar, Councilmember Bensoussan, Councilmember McCann and Mayor Salas

Deputy Mayor Aguilar arrived at 2:12 p.m.

Also Present: City Manager Halbert, City Attorney Googins, City Clerk Norris, and Assistant City Clerk Bigelow

PLEDGE OF ALLEGIANCE TO THE FLAG AND MOMENT OF SILENCE

Special Events Coordinator Berdial led the Pledge of Allegiance.

Mayor Salas announced, pursuant to AB 23, that she and each Councilmember would receive \$50 for their attendance at this Housing Authority meeting, being held simultaneously with the City Council meeting.

SPECIAL ORDERS OF THE DAY

- A. [14-0709](#) OATHS OF OFFICE
Nancy Sedgwick, Resource Conservation Commission
Jorge Marroquin and Jerry Munoz, Safety Commission

City Clerk Norris administered the oaths of office to Commissioners Sedgwick, Marroquin, and Munoz, and Councilmember Bensoussan presented them with certificates of appointment.

- B. [14-0654](#) INTRODUCTION BY KELLEY BACON, DEPUTY CITY MANAGER, OF EMPLOYEE OF THE MONTH OLGA BERDIAL, SPECIAL EVENTS COORDINATOR

Deputy City Manager Bacon introduced employee of the month, Olga Berdial. Mayor Salas read the proclamation and Councilmember Bensoussan presented it to Ms. Berdial.

- C. [14-0694](#) PRESENTATION OF A PROCLAMATION TO CHULA VISTA POLICE DEPARTMENT CAPTAIN GARY FICACCI ON 26 YEARS OF SERVICE TO THE CITY OF CHULA VISTA

Chief Bejarano introduced Captain Ficacci. Mayor Salas read the proclamation and Deputy Mayor Aguilar presented it to Captain Ficacci.

- D. [14-0618](#) PRESENTATION BY PUBLIC WORKS RECYCLING SPECIALIST MANUEL MEDRANO AND COMPUTERS 2 SAN DIEGO KIDS EXECUTIVE DIRECTOR CHERI PIERRE PRESENTING COMPUTER DONATIONS TO SOUTH BAY COMMUNITY SERVICES' YOUTH IN TRANSITION PROGRAM

Recycling Specialist Medrano and Computers 2 San Diego Kids Executive Director, Cheri Pierre, presented information about the electronic recycling and computer refurbishing partnership program. Geri Garcia-Schroeder, representing South Bay Community Services, thanked the City and Computers 2 San Diego Kids for the computer donations to its Youth in Transition Program.

- E. [14-0697](#) PRESENTATION BY DR. EMERALD RANDOLPH REGARDING THE 2014 CHRISTMAS IN OCTOBER PROGRAM IN THE CITY OF CHULA VISTA

Dr. Randolph made a presentation on the 2014 Christmas in October program and recognized the program's supporters, sponsors, and volunteers.

- F. [14-0718](#) PRESENTATION OF STARLIGHT PARADE AWARDS

Marketing and Communications Manager Steinberger and Christine Moore, President of the Third Avenue Village Association, presented the Starlight Parade awards:

*Best Marching Band - Olympian High School
 Best Representation of Holiday Theme - Camacho Brokers
 Most Creative - Republic Services Drummers
 Best Use of Lights - Boy Scout and Cub Scout Troop 151
 Best Community Entry - Chula Vista Elementary School District Safety Patrol
 Best Car Club - Low Rider Community of San Diego
 Most Enthusiastic Entry - Morse High School
 Best Dance - La Bella Pizza
 Best Starlight Spirit - Deputy Mayor Aguilar*

Mayor Salas announced that Items 18 and 19 would be continued to January 13, 2015 and January 6, 2015, respectively.

CONSENT CALENDAR (Items 1 - 15)

Item 14 was removed from the Consent Calendar at the request of Deputy Mayor Aguilar.

1. [14-0712](#) APPROVAL OF MINUTES of December 2, and December 9, 2014.
Recommended Action: Council approve the minutes.
2. [14-0701](#)
 - A. ORDINANCE NO. 3330 OF THE CITY OF CHULA VISTA APPROVING THE SECTIONAL PLANNING AREA (SPA) PLANNED COMMUNITY DISTRICT REGULATIONS FOR OTAY RANCH VILLAGE THREE NORTH AND A PORTION OF FOUR (SECOND READING AND ADOPTION)
 - B. ORDINANCE NO. 3331 OF THE CITY OF CHULA VISTA APPROVING THE SECTIONAL PLANNING AREA (SPA) PLANNED COMMUNITY DISTRICT REGULATIONS FOR OTAY RANCH VILLAGE EIGHT EAST (SECOND READING AND ADOPTION)

C. ORDINANCE NO. 3332 OF THE CITY OF CHULA VISTA APPROVING THE SECTIONAL PLANNING AREA (SPA) PLANNED COMMUNITY DISTRICT REGULATIONS FOR OTAY RANCH VILLAGE TEN (SECOND READING AND ADOPTION)

Recommended Action: Council adopt the ordinances.

3. [14-0702](#) A. ORDINANCE NO. 3333 OF THE CITY OF CHULA VISTA APPROVING A FIRST AMENDMENT TO THE RESTATED AND AMENDED PRE-ANNEXATION DEVELOPMENT AGREEMENT BETWEEN SSBT LCRE V, LLC AND THE CITY OF CHULA VISTA (FORMER SNMB DEVELOPMENT AGREEMENT) (SECOND READING AND ADOPTION)

B. ORDINANCE NO. 3334 OF THE CITY OF CHULA VISTA APPROVING A FIRST AMENDMENT TO THE RESTATED AND AMENDED PRE-ANNEXATION DEVELOPMENT AGREEMENT BETWEEN SSBT LCRE V, LLC AND THE CITY OF CHULA VISTA (FORMER JEWELS OF CHARITY DEVELOPMENT AGREEMENT) (SECOND READING AND ADOPTION)

Recommended Action: Council adopt the ordinances.

4. [14-0667](#) REPORT REGARDING THE DEVELOPMENT IMPACT FEE, PARKLAND ACQUISITION AND DEVELOPMENT FEE, AND TRUNK SEWER CAPITAL RESERVE FUNDS FOR THE FISCAL YEAR ENDED JUNE 30, 2014

Recommended Action: Council receive the report.

5. [14-0682](#) RESOLUTION NO. 2014-242 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ACCEPTING \$179,239 FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY AND APPROPRIATING SAID FUNDS TO THE FEDERAL GRANTS FUND FOR THE STATE HOMELAND SECURITY PROGRAM (4/5 VOTE REQUIRED)

Recommended Action: Council adopt the resolution.

6. [14-0683](#) RESOLUTION NO. 2014-243 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ACCEPTING \$500,000 FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY, AUTHORIZING THE POLICE DEPARTMENT TO PURCHASE RADIO EQUIPMENT FROM AVIAT U.S., INC. VIA THE COUNTY OF SAN DIEGO'S CONTRACT NUMBER 547601 AND APPROPRIATING SAID FUNDS TO THE FEDERAL GRANTS FUND FOR THE URBAN AREA SECURITY INITIATIVE (4/5 VOTE REQUIRED)

Recommended Action: Council adopt the resolution.

7. [14-0689](#) A. RESOLUTION NO. 2014-244 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA SETTING THE ANNUAL SALARY FOR THE ELECTED CITY ATTORNEY AT \$184,610 EFFECTIVE DECEMBER 9, 2014
- B. RESOLUTION NO. 2014-245 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AMENDING THE COMPENSATION SCHEDULE AND CLASSIFICATION PLAN TO REFLECT THE ADDITION OF THE DIRECTOR OF HUMAN RESOURCES POSITION TITLE; CHANGE IN THE BARGAINING UNIT DESIGNATION FOR THE SENIOR POLICE TECHNOLOGY SPECIALIST; AMENDING THE AUTHORIZED POSITION COUNT IN THE HUMAN RESOURCES DEPARTMENT WITH NO NET CHANGE IN AUTHORIZED STAFFING; AND APPROPRIATING FUNDS THEREFOR (4/5 VOTE REQUIRED)
- C. RESOLUTION NO. 2014-246 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE REVISED FISCAL YEAR 2014/2015 COMPENSATION SCHEDULE AS REQUIRED BY CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 570.5

Recommended Action: Council adopt the resolutions.

8. [14-0611](#) RESOLUTION NO. 2014-247 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA REQUESTING THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM APPROVE THE USE OF CITY OF CHULA VISTA PRIOR-YEAR UNALLOCATED TRANSPORTATION DEVELOPMENT ACT ARTICLE 4.0 FUNDS IN THE AMOUNT OF \$261,556 FOR THE REHABILITATION OF THE PUBLIC WORKS CENTER/TRANSIT YARD PAVEMENT; ESTABLISHING A NEW CAPITAL IMPROVEMENT PROJECT "PUBLIC WORKS CENTER/TRANSIT YARD PAVEMENT PROJECT" (GG224); AND APPROPRIATING \$261,556 OF TRANSPORTATION DEVELOPMENT ACT FUNDS TO THE GG224 PROJECT (4/5 VOTE REQUIRED)

Recommended Action: Council adopt the resolution.

9. [14-0666](#) RESOLUTION NO. 2014-248 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AMENDING THE FISCAL YEAR 2015 BUDGET TO APPROPRIATE \$21,881 OF UNSPENT SOLAR PHOTOVOLTAIC PROJECT (PHASE 2) FUNDS AND \$3,124 OF UNANTICIPATED REVENUE FROM THE COOL CALIFORNIA CHALLENGE IN ORDER TO SUPPORT ADDITIONAL ENERGY EFFICIENCY AND SUSTAINABILITY PROJECTS (4/5 VOTE REQUIRED)

Recommended Action: Council adopt the resolution.

10. [14-0681](#) RESOLUTION NO. 2014-249 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AMENDING THE FISCAL YEAR 2014/2015 CIP BUDGET BY APPROPRIATING \$200,620 FROM THE AVAILABLE BALANCE OF THE TDIF FUND AND \$2,001,840 OF HIGHWAY BRIDGE PROGRAM (HBP) FUNDS BASED ON UNANTICIPATED REVENUE TO CIP NO. STL-384 (4/5 VOTE REQUIRED)

Recommended Action: Council adopt the resolution.

11. [14-0686](#) RESOLUTION NO. 2014-686 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROPRIATING \$39,636.40 FROM THE OPEN SPACE DISTRICT 31 FUND FOR THE REPLACEMENT OF THE TOT LOT LOCATED ON SAINT CLAIRE DRIVE IN OPEN SPACE DISTRICT 31 (4/5 VOTE REQUIRED)

Recommended Action: Council adopt the resolution.

12. [14-0696](#) RESOLUTION NO. 2014-251 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE AMENDED AGREEMENT WITH THE COUNTY OF SAN DIEGO PROBATION DEPARTMENT FOR THE PROVISION OF WORK CREWS, AND AUTHORIZING THE PURCHASING AGENT TO APPROVE AND EXECUTE AMENDMENTS TO THE AGREEMENT UNTIL TERMINATED BY MUTUAL CONSENT

Recommended Action: Council adopt the resolution.

13. [14-0700](#) RESOLUTION NO. 2014-252 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AMENDING THE CONTRACT FOR CITYWIDE STREET SWEEPING SERVICES TO CANNON PACIFIC SERVICES, INC. TO INCREASE THE COST OF SWEEPING CITY PARKING LOTS

Recommended Action: Council adopt the resolution.

Item 14 was removed from the Consent Calendar.

15. [14-0599](#) RESOLUTION NO. 2014-254 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE SPONSORSHIP OF THE 2015 HARBORFEST EVENT; APPROVING THE AGREEMENT WITH MCFARLANE PROMOTIONS TO COORDINATE CHULA VISTA HARBORFEST 2015; AND APPROVING AN APPROPRIATION FROM THE GENERAL FUND OF \$7,500 FOR INITIAL PAYMENT TO MCFARLANE PROMOTIONS (4/5 VOTE REQUIRED)

Recommended Action: Council adopt the resolution.

Approval of the Consent Calendar

ACTION: A motion was made by Councilmember McCann, seconded by Councilmember Bensoussan, to approve staff's recommendations on the above Consent Calendar items, headings read, text waived. The motion carried by the following vote:

Yes: 4 - Aguilar, Bensoussan, McCann and Salas

No: 0

Abstain: 0

ITEMS REMOVED FROM THE CONSENT CALENDAR

14. [14-0704](#) RESOLUTION NO. 2014-253 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AMENDING A MEMORANDUM OF UNDERSTANDING WITH THE SAN DIEGO ASSOCIATION OF GOVERNMENTS REGARDING AN ENVIRONMENTAL DOCUMENT FOR LIGHT RAIL TROLLEY GRADE SEPARATIONS AND STATIONS TO THE BLUE LINE LIGHT RAIL, AUTHORIZING THE CITY ATTORNEY TO MAKE SUCH NON-SUBSTANTIVE CHANGES DEEMED NECESSARY FOR THE BENEFIT OF THE CITY, AND AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE AGREEMENT

Principal Civil Engineer Rivera and John Dorow, Senior Engineer, representing SANDAG, and Patrick Somerville, Project Manager, representing HNTB, gave a presentation on the item.

ACTION: A motion was made by Councilmember McCann, seconded by Deputy Mayor Aguilar, that Resolution No. 2014-253 be accepted, heading read, text waived. The motion carried by the following vote:

Yes: 4 - Aguilar, Bensoussan, McCann and Salas

No: 0

Abstain: 0

PUBLIC COMMENTS

Jock Rodriguez, Chula Vista resident, requested an investigation of an incident involving his son at Castle Park High School. Mayor Salas referred the issue to the City Attorney and City Manager.

PUBLIC HEARINGS

16. [14-0628](#) CONSIDERATION OF APPROVAL OF A TENTATIVE SUBDIVISION MAP TO SUBDIVIDE A .98-ACRE SITE INTO FIVE (5) SINGLE-FAMILY LOTS FOR INDIVIDUAL OWNERSHIP AT 386 DATE STREET; APPLICANT: IBERIA PROJECT MANAGEMENT, LLC

RESOLUTION NO. 2014-255 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING TENTATIVE SUBDIVISION MAP PCS-13-01 TO SUBDIVIDE A .98-ACRE SITE INTO FIVE (5) SINGLE-FAMILY LOTS FOR INDIVIDUAL OWNERSHIP LOCATED AT 386 DATE STREET

Notice of the hearing was given in accordance with legal requirements, and the hearing was held on the date and no earlier than the time specified in the notice.

Mayor Salas opened the public hearing. There being no members of the public who wished to speak, Mayor Salas closed the public hearing.

ACTION: A motion was made by Councilmember Bensoussan, seconded by Councilmember McCann, that Resolution No. 2014-255 be adopted, heading read, text waived. The motion carried by the following vote:

Yes: 4 - Aguilar, Bensoussan, McCann and Salas

No: 0

Abstain: 0

17. [14-0684](#) CONSIDERATION OF THE ISSUANCE OF TAX-EXEMPT OBLIGATIONS WITH RESPECT TO PROPOSED FINANCING OF THE DEVELOPMENT OF A 126-UNIT SENIOR AND 84-UNIT AFFORDABLE HOUSING DEVELOPMENT IN THE MILLENIA COMMUNITY

A. RESOLUTION NO. 2014-256 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY HOUSING REVENUE BONDS OF THE HOUSING AUTHORITY OF THE CITY OF CHULA VISTA FOR MILLENIA SENIOR AFFORDABLE APARTMENTS

B. RESOLUTION NO. 2014-006 OF THE HOUSING AUTHORITY OF THE CITY OF CHULA VISTA REGARDING ITS INTENTION TO ISSUE TAX-EXEMPT OBLIGATIONS FOR A PROPOSED DEVELOPMENT OF THE MILLENIA SENIOR AFFORDABLE APARTMENTS

C. RESOLUTION NO. 2014-257 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY HOUSING REVENUE BONDS OF THE HOUSING AUTHORITY OF THE CITY OF CHULA VISTA FOR MILLENIA AFFORDABLE APARTMENTS

D. RESOLUTION NO. 2014-007 OF THE HOUSING AUTHORITY OF THE CITY OF CHULA VISTA REGARDING ITS INTENTION TO ISSUE TAX-EXEMPT OBLIGATIONS FOR A PROPOSED DEVELOPMENT OF THE MILLENIA AFFORDABLE APARTMENTS

Notice of the hearing was given in accordance with legal requirements, and the hearing was held on the date and no earlier than the time specified in the notice.

Housing Manager Hines gave a presentation on the item.

Mayor Salas opened the public hearing. There being no members of the public who wished to speak, Mayor Salas closed the public hearing.

ACTION: A motion was made by Councilmember Bensoussan, seconded by Deputy Mayor Aguilar, that Resolution Nos. 2014-256 and 2014-257 of the City Council and Resolution Nos. 2014-006 and 2014-007 of the Housing Authority be adopted, headings read, text waived. The motion carried by the following vote:

Yes: 4 - Aguilar, Bensoussan, McCann and Salas

No: 0

Abstain: 0

18. [14-0640](#) CONSIDERATION OF AMENDMENTS TO THE GROWTH MANAGEMENT ORDINANCE (CHAPTER 19.09 OF THE CHULA VISTA MUNICIPAL CODE), AND THE GROWTH MANAGEMENT PROGRAM IMPLEMENTATION MANUAL; TO REPLACE THE THRESHOLD STANDARDS, GROWTH MANAGEMENT OVERSIGHT COMMITTEE POLICY AND THE GROWTH MANAGEMENT PROGRAM DOCUMENT

Notice of the hearing was given in accordance with legal requirements, and the hearing was held on the date and no earlier than the time specified in the notice.

Mayor Salas opened the public hearing and continued the item to January 13, 2015.

19. [14-0656](#) CONSIDERATION OF AMENDING CHAPTER 12 (SEWER FEES) OF THE CITY'S MASTER FEE SCHEDULE

Notice of the hearing was given in accordance with legal requirements, and the hearing was held on the date and no earlier than the time specified in the notice.

Mayor Salas opened the public hearing and continued the item to January 6, 2015.

BOARD AND COMMISSION REPORTS

20. [14-0591](#) RESOLUTION NO. 2014-258 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING A CONSULTANT AGREEMENT WITH Q2 DATA & RESEARCH, LLC TO PROVIDE DISTRICT MAPPING CONSULTANT SERVICES TO THE DISTRICTING COMMISSION; APPROVING THE PROPOSED DISTRICTING COMMISSION BUDGET, AND APPROPRIATING FUNDS, ACCORDINGLY (4/5 VOTE REQUIRED)

Assistant City Attorney Maland provided information and Districting Commission Chair Torres gave a presentation on the item.

A motion was made by Councilmember Bensoussan, seconded by Councilmember McCann, that the proposed resolution be adopted with an amendment to reduce the requested additional budget appropriation to the Districting Commission budget to \$45,000.

ACTION: A substitute motion was made by Councilmember Bensoussan, seconded by Councilmember McCann, that Resolution No. 2014-258 be adopted as amended to remove reference to approving the proposed Districting Commission budget and appropriating funds accordingly, heading read, text waived, and to reconsider the proposed budget appropriation after January 23, 2015. The motion carried by the following vote:

Yes: 3 - Bensoussan, McCann and Salas

No: 1 - Aguilar

Abstain: 0

A motion was made by Deputy Mayor Aguilar to increase the Districting Commission budget by \$25,000. The motion failed due to lack of a second.

CITY MANAGER'S REPORTS

City Manager Halbert provided information on a project to restripe a portion of Hilltop Road and how reports of public concern regarding congestion had been addressed.

He also reported that Chief Geering had been appointed as the permanent Fire Chief.

MAYOR'S REPORTS

21. [14-0664](#) Appointment of Deputy Mayor

ACTION: A motion was made by Mayor Salas, seconded by Councilmember McCann, that Councilmember Bensoussan be appointed Deputy Mayor. The motion carried by the following vote:

Yes: 4 - Aguilar, Bensoussan, McCann and Salas

No: 0

Abstain: 0

22. [14-0665](#) APPOINTMENT OF CITY COUNCILMEMBERS TO OUTSIDE AGENCIES:

- Chula Vista Veterans Home Support Foundation - Member
- Chula Vista Veterans Home Support Foundation - Alternate
- International Council for Local Environmental Initiatives (ICLEI) - Environmental Lead
- International Council for Local Environmental Initiatives (ICLEI) - Alternate
- League of California Cities, San Diego Division - Member
- League of California Cities, San Diego Division - Alternate
- Metropolitan Transit System Board of Directors (MTS) - Member
- Metropolitan Transit System Board of Directors (MTS) - Alternate
- Metropolitan Wastewater Commission (Metro) - Member
- Metropolitan Wastewater Commission (Metro) - Alternate
- Otay Valley Regional Park (OVRP) Policy Committee and Preserve Owner Manager (POM) - Member

- Otay Valley Regional Park (OVRP) Policy Committee and Preserve Owner Manager (POM) - Alternate
- San Diego Association of Governments (SANDAG) Board of Directors - Member
- San Diego Association of Governments (SANDAG) Board of Directors - Alternates (2)
- San Diego Association of Governments (SANDAG) Bayshore Bikeway Committee
- South County Economic Development Council (EDC) - Member
- South County Economic Development Council (EDC) - Alternate

At the request of Mayor Salas, there was consensus of the Council to make the remaining appointments to outside agencies after the final member of the Council had been appointed.

ACTION: A motion was made by Councilmember Bensoussan, seconded by Councilmember McCann, that Mayor Salas be appointed as the member of the Chula Vista Veterans Home Support Foundation; League of California Cities (LCC), San Diego Division; Metropolitan Wastewater Commission (Metro); and San Diego Association of Governments (SANDAG) Board of Directors. The motion carried by the following vote:

Yes: 4 - Aguilar, Bensoussan, McCann and Salas

No: 0

Abstain: 0

- 23. [14-0714](#)** CONSIDERATION OF HOLDING A SPECIAL MEETING TO CONDUCT INTERVIEWS TO FILL THE VACANCY ON THE CITY COUNCIL, AND DISCUSSION AND POSSIBLE DIRECTION TO STAFF REGARDING RELATED PROCESSES

At the request of Mayor Salas, City Clerk Norris distributed and explained a proposed timeline for the appointment of a City Councilmember.

There was consensus of the Council to approve the City Clerk's recommended timeline and hold a special meeting on January 8, 2015, at 4:00 p.m., for the purpose of conducting interviews to fill the vacancy on the City Council. Mayor Salas requested that the meeting be televised.

- 24. [14-0695](#)** COUNCIL DISCUSSION AND POSSIBLE ACTION REGARDING CHANGING THE TIME OF REGULAR CITY COUNCIL MEETINGS

ACTION: A motion was made by Councilmember Bensoussan, seconded by Mayor Salas, changing the start time of regular City Council meetings to 4:00 p.m., with business items, including items removed from the Consent Calendar and Public Hearing items, being heard at 6:00 p.m., commencing with the meeting of January 6, 2015. The motion carried by the following vote:

Yes: 4 - Aguilar, Bensoussan, McCann and Salas

No: 0

Abstain: 0

Mayor Salas requested that the Safety Commission investigate improving crosswalk safety at Fourth Avenue and Park Way.

COUNCILMEMBERS' COMMENTS

Deputy Mayor Aguilar and Councilmember Bensoussan wished everyone happy holidays.

At the request of Councilmember Bensoussan, there was consensus of the Council to request the City Manager propose ideas to restart work on the City's Arts Master Plan.

Councilmember McCann congratulated Chief Geering on his appointment as Fire Chief. He thanked City employees for their service and stated he was looking forward to working with the employees, City management, and the Council.

Mayor Salas paid tribute to Assemblyman Pete Chacon.

ADJOURNMENT

At 5:45 p.m., Mayor Salas adjourned the meeting to the City Council Meeting on January 6, 2015, at 4:00 p.m., in the Council Chambers.

Kerry K. Bigelow, Assistant City Clerk

EXHIBIT G



1140 S. Coast Highway 101
Encinitas, CA 92024

Tel 760-942-8505
Fax 760-942-8515
www.coastlawgroup.com

January 21, 2015

Donna Norris
City Clerk
City of Chula Vista
276 4th Avenue
Chula Vista, CA

Via Electronic Mail
CityClerk@chulavistaca.gov

RE: Notice of Intent to File Suit and Demand for Cure
Public Records Act and Brown Act Violations

Dear Ms. Norris:

Please accept this correspondence on behalf of our clients San Diegans for Open Government (SanDOG) and Mr. Chris Shilling. SanDOG is a non-profit, public-interest organization that advocates for good-governance issues, including environment-related quality-of-life issues in the County of San Diego.

This letter serves as our clients' Notice of Intent to File Suit pursuant to the California Public Records Act ("PRA")¹ in response to the City of Chula Vista's failure to adequately respond to our client's PRA Request and for violations of the Brown Act² in connection with the City's selection of candidates for interviews to fill the Council vacancy.

On January 6, 2015, Mr. Shilling requested the list of the Mayor's and each City Councilmember's nominees for the vacant City Council seat. In its January 16, 2015 response, the City relied on various exemptions to the Public Records Act to withhold the requested documents. The City's reliance on such exemptions is misplaced, and this letter constitutes Mr. Shilling's renewed request for the aforementioned lists. Should the City fail to provide the requested documents, our client intends to seek judicial enforcement of the Public Records Act.³

Notably, the City relies on three different legal bases for determining the requested documents are exempt from disclosure: Gov Code Sections 6254(a), 6254(k), and 6255. On their face these exemptions are inapplicable. Elected officials' *votes for candidates* to replace a vacancy most certainly do not qualify as preliminary drafts, notes or interagency memos. Likewise there is no right to privacy afforded to these votes – indeed such votes are subject to the Brown Act, as more fully explained below. Lastly, the deliberative process privilege has no application to a purportedly public process of filling a vacancy:

The key question in every case is "whether the disclosure of materials would expose an agency's decisionmaking process in such a way as to discourage candid discussion within the agency and thereby undermine the agency's ability to perform its functions." [citation] Even if the content of a document is purely factual, it is nonetheless exempt from public scrutiny if it is "actually . . . related to the process

¹ Government Code § 6250 *et. seq.*

² Government Code § 54950 *et. seq.*

³ Section 6258 of the Public Records Act provides that "[a]ny person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any public record or class of public records under this chapter."

by which policies are formulated" [citation] or "inextricably intertwined" with "policy-making processes." [citation]

(*Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1342). Unquestionably, there is no policy formulation involved in selecting a councilmember. Nor is there any decisionmaking process discouraged by disclosure of the current elected officials' votes for their future counterpart.

Further, the City fails to explain – as required pursuant to all of the aforementioned exemptions – how the public interest in withholding the requested documents *clearly outweighs* the public interest in disclosure. (See Gov Code §6254(a) ["Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, *if* the public interest in withholding those records clearly outweighs the public interest in disclosure."], emphasis added). Because this request concerns the appointment of an elected official to fill a vacancy, it certainly is of great public import which councilmember voted for which candidate(s).

Not only do Californians – including our clients – have a constitutional right to access the records of their public agencies, but they also have the right to an open government, where actions⁴ are taken openly and deliberations are conducted openly. (Gov Code §54950). Indeed, secret ballots are expressly prohibited by Gov Code section 54953(c)(1). The Attorney General's office has long disapproved secret ballot voting in open meetings and the casting of mail ballots:

Thus, items under consideration which are not subject to a specific closed meeting exception must be conducted in a fully open forum. (68 Ops.Cal.Atty.Gen. 65 (1985)). One aspect of the public's right to scrutinize and participate in public hearings is their right to witness the decision-making process. If votes are secretly cast, the public is deprived of a portion of its right. (See also 59 Ops.Cal.Atty.Gen. 619, 621-622 (1976).) However, it is the view of this office that members of a body may cast their ballots either orally or in writing so long as the written ballots are marked and tallied in open session and the ballots are disclosable public records.

(Attorney General Brown Act Pamphlet (2003), p. 31, emphasis added). Thus, not only do citizens have the right to access the votes withheld here, but because the votes were not made public, in open session at an agendaized meeting, the City also violated the Brown Act's prohibition on secret ballots. The fact that the Mayor and Councilmembers vote may be considered "preliminary" to the selection of finalists for an interview is irrelevant. "No legislative body shall take action by secret ballot, whether preliminary or final." (Gov Code §54953(c)(1)), emphasis added.

In secretly voting for candidates, the City also failed to comply with its obligation to notify the public with a "brief description" of each item to be discussed or acted upon in an agenda, and further participated in an unlawful "serial meeting," whereby the majority of the Council took action outside of the public process through a series of communications with each other and with the City Clerk. (Gov Code § 54952.2(b)).

⁴ Government Code section 54952.6 defines "action taken" as "a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance." This expansive definition includes the type of action taken by the Chula Vista City Council and Mayor in voting on "finalists" selected to be interviewed.

Pursuant to Government Code Section 54960.1, this letter constitutes a demand that the City of Chula Vista, specifically the City Council and Mayor, cure and correct the illegally taken action as follows: (i) formally and explicitly withdraw the prior votes made; (2) properly agendize an open meeting for the selection of candidates for an interview process; (3) provide an opportunity for public comment by members of the public at the aforementioned meeting; (4) provide for the open and public vote by the Council and Mayor for candidates to continue onto the interview process. Notice of the meeting, a brief description of the action proposed to be taken, and the availability of public comment must be included on a posted agenda. Any and all documents in the possession of the City related to the action taken shall also be provided with the agenda.

As provided by Section 54960.1, the City has 30 days from the receipt of this demand to either cure or correct the challenged action. Should the City fail to cure or correct as demanded, SanDOG and Mr. Shilling will seek a judicial invalidation of the challenged action pursuant to Section 54960.1. SanDOG and Mr. Shilling will also seek an award of costs and reasonable attorney fees in this matter.

Further, until the City provides the responsive, requested documents, it will continue to be in violation of the Public Records Act. If the City does not promptly produce the responsive documents by Friday, January 23, 2015, we intend to file suit to compel production. We urge the City to consider the public interest and citizens' right to open government in reconsidering its initial response to the Public Records Act Request.

Should you have any questions feel free to contact me directly.

Sincerely,

COAST LAW GROUP LLP



Livia Borak

Attorneys for Chris Shilling and SanDOG

cc: City Attorney Glen R. Googins, cityattorney@chulavistaca.gov
clients

EXHIBIT H



Office of the City Attorney

VIA EMAIL; HARDCOPY TO FOLLOW VIA U.S. MAIL

January 23, 2015

Ms. Livia Borak
Coast Law Group, LLP
1140 S. Coastal Highway 101
Encinitas, CA 92024

Mr. Cory Briggs
Briggs Law Corporation
814 Morena Blvd., Suite 107
San Diego, CA 92110

Re: Notice of Intent to File Suit and Demand for Cure to City of Chula Vista

Dear Ms. Borak and Mr. Briggs:

This letter will acknowledge receipt of your correspondence dated January 21, 2015 to Ms. Donna Norris, City Clerk. Your letter apparently written on behalf of San Diegans for Open Government and Mr. Chris Shilling demands that the City cure what you contend is an alleged Brown Act Violation and demands that the City produce documents which may be exempt from disclosure under the California Public Records Act in response to a January 6, 2015 request by Mr. Schilling.

You request in your correspondence that the City cure or correct the alleged Brown Act violation within thirty days from receipt of your January 21, 2015 letter. You also demand that the City produce the potentially exempt documents in response to Mr. Schilling's record request by Friday, January 23, 2015 or you intend to file suit to compel production.

Please be advised that my office has already begun reviewing the arguments and case citations submitted in your January 21, 2015. Please be further advised that I have requested that the City Clerk place the issue of your potential lawsuit on the very next and earliest meeting of the City Council. Unfortunately, as I am sure you are aware, the Brown Act requires 72 hours' notice for matters agenda matters at a regular City Council meeting. Consequently the matter will not be presented to the City Council until next Tuesday, January 27, 2015.

This letter shall serve as my request that you simply delay your preparation and filing of a suit to compel production just two business days until after the City Council has an opportunity to review the issue on January 27th. If the City Council decides to produce the additional documents, my office would do so promptly, and there would be no need to compel production. Consequently, I would respectfully request that you allow the City until 4:00 pm on Wednesday the 28th to provide any responsive documents before filing any lawsuit.

Thank you for your anticipated courtesy and cooperation in this regard.

Sincerely,

Bart C. Miesfeld
Senior Assistant City Attorney

EXHIBIT I



Office of the City Attorney

January 28, 2015

Ms. Livia Borak
Coast Law Group, LLP
1140 S. Coastal Highway 101
Encinitas, CA 92024

Re: Notice of Intent to File Suit and demand for Cure to City of Chula Vista

Dear Ms. Borak:

As we discussed in our telephone conversation this morning, and as my January 23, 2015 correspondence informed, my office has been reviewing the factual and legal issues raised in your January 21, 2015 letter. Your letter requested that the City produce, "the list of the Mayor's and each City Councilmember's nominees for the vacant City Council seat."

Please be advised that the City believes that its initial response to Mr. Shilling's January 6, 2015 request was indeed reasonable and justified. Upon revisiting the issue following your January 21, 2015 request, and in light of the fact that the appointment process has now been completed, the City, in an attempt to provide appropriate transparency, will now provide the requested documents.

In that regard, attached please find copies of the list of applicants each of the Councilmembers and Mayor provided to the City Clerk identifying their individual request to place on the agenda specific applicant interviews for the January 8, 2015 Council meeting. I believe you will find the documents self-explanatory.

Please let me know if you have any questions or comments

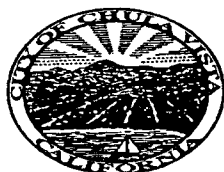
Sincerely,

Bart C. Miesfeld
Senior Assistant City Attorney

BJM:taz
Enclosure

	Last Name, First Name	Date Application Received	Date Resume Received
1	Andujo, Richard	12/29/2014	12/29/2014
2	Angulo, Javier	12/29/2014	12/29/2014
3	Braun, Kari Genevieve	12/23/2014	12/23/2014
✓ 4	Clark, James	12/21/2014	12/21/2014
5	Collins, Craig	12/27/2014	12/27/2014
6	Corcilus, Rob	12/22/2014	12/22/2014
7	Dennison, Lorna	12/19/2014	12/27/2014
8	Diaz, David	12/26/2014	12/29/2014
9	Felber, Bryan	12/16/2014	12/16/2014
10	Field, William	12/29/2014	12/29/2014
11	Fragomeno, Mario	12/28/2014	12/28/2014
12	Galvez, Jill	12/23/2014	12/23/2014
13	Gastelum, Hector	12/29/2014	12/29/2014
14	Glanz, Todd	12/29/2014	12/29/2014
✓ 15	Glover, Thomas	12/29/2014	12/29/2014
✓ 16	Gonzales, Bernard	12/15/2014	12/15/2014
✓ 17	Gutierrez, Ofella	12/29/2014	12/29/2014
18	Hall, William	12/29/2014	12/29/2014
19	Harris, Willie	12/25/2014	12/28/2014
20	Horton, Shirley	12/29/2014	12/29/2014
21	Howard, Willard	12/22/2014	12/22/2014
22	Hyde, Roger	12/29/2014	12/29/2014
23	Jackson, Michael	12/19/2014	12/19/2014
✓ 24	Liuag, Mark	12/23/2014	12/23/2014
25	Macapugay, Kirin	12/29/2014	12/29/2014
26	Melligan, Scott	12/25/2014	12/29/2014
27	Miesen, Steven	12/21/2014	12/21/2014
28	Moctezuma, Lisa	12/18/2014	12/18/2014
29	Morris, Patricia	12/27/2014	12/27/2014
30	O'Neill, Kevin	12/16/2014	12/16/2014
31	Orozco, Benito	12/16/2014	12/21/2014
32	Paguio, Jason	12/26/2014	12/26/2014
33	Palomo, Michael	12/29/2014	12/29/2014
34	Price, Devin	12/29/2014	12/29/2014
35	Saenz-Gonzalez, Jesseca	12/29/2014	12/29/2014
36	Serrato, Jose	12/22/2014	12/22/2014
37	Spethman, Mike	12/21/2014	12/21/2014
38	Starr, Felicia	12/29/2014	12/29/2014
39	Stonesifer, Sandy	12/27/2014	12/27/2014
40	Vaccaro, Daniel	12/24/2014	12/29/2014
41	Wagner, Linda	12/15/2014	12/15/2014
42	White, Cheryl	12/29/2014	12/29/2014
43	Zaker, Majid Max	12/21/2014	12/25/2014
44	Zarem, John	12/29/2014	12/29/2014

Salas



RECEIVED

COUNCILMEMBER 15 JAN -5 P3:36
John McCann CITY OF CHULA VISTA
CITY CLERK'S OFFICE

January 5, 2015

Donna Norris, City Clerk
City of Chula Vista
276 Fourth Ave.
Chula Vista, CA 91910

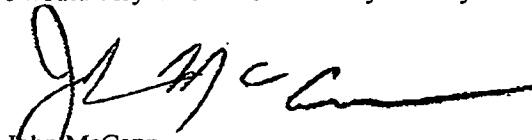
Re: Vacant Council Seat Appointment

Dear Ms. Norris

Following are names of individuals I would like to submit which are to be advanced to the interview stage for the filling of the vacant council seat. The names are:

Andujo, Richard
Braun, Kari Genevieve
Felber, Bryan
Galvez, Jill
Gastelum, Hector
Glover, Thomas
Harris, Willie
Horton, Shirley
Howard, Willard
Hyde, Roger
Liuag, Mark
Melligan, Schott
Meisen, Steven
Moctezuma, Lisa
Morris, Patricia
Orozco, Benito
Paguio, Jason
Saenz-Gonzalez, Jessica
Serrato, Jose
Vaccaro, Daniel

I would very much like to thank you and your staff for your assistance in this matter.



John McCann
Councilmember

Donna Norris

From: Pamela Bensoussan
Sent: Monday, January 05, 2015 8:59 AM
To: Donna Norris
Subject: list of nominations

Donna,
Here is my list.

James Clark
Thomas Glover
William Hall
Shirley Horton
Steven Meissen
Kevin O'Neill
Jason Paguio

Thank you, Pamela

Donna Norris

From: Patricia Aguilar
Sent: Monday, January 05, 2015 5:00 PM
To: Donna Norris
Subject: Appointee interview nominations

Hi donna here are my seven interview nominees: james clark, todd glanz, william hall, mark liuag, lisa moctezuma, linda wagner and john zarem. Please let me know who finalists are. Best pat

Pat Aguilar, Deputy Mayor
City of Chula Vista
Via iPad

3 **PROOF OF SERVICE**
4 **STATE OF CALIFORNIA, COUNTY OF SAN DIEGO**

5 I am an employee in the County of San Diego, State of California. I am over the
6 age of 18 and not a party to the within action; my business address is 1140 South Coast
7 Hwy 101, Encinitas, California 92024.

8 On December 14, 2015, I served the foregoing documents, described as:

- 9 • **Verified Second Amended Complaint for Declaratory and Injunctive Relief and**
10 **Petition for Writ of Mandate**

11 on all interested parties in this action as follows:

12 **Charles Bird**
13 **Stefanie Warren**
14 **McKenna Long & Aldridge, LLP**
15 **600 West Broadway**
16 **Suite 2600**
17 **San Diego, CA 92101**
18 **email: cbird@mckennalong.com;**
19 **swarren@mckennalong.com**

Attorneys for Respondents and
Defendants CITY OF CHULA VISTA;
MARY CASILLA SALAS; JOHN McCANN;
PATRICIA AGUILAR; PAMELA
BENSOUSSAN; STEVE MIESEN

20 **Bart Miesfeld**
21 **Office of the City Attorney**
22 **City of Chula Vista**
23 **276 Fourth Avenue**
24 **Chula Vista, CA 91910**
25 **email: bmiesfeld@chulavistaca.gov**

Attorneys for Respondents and
Defendants CITY OF CHULA VISTA;
MARY CASILLA SALAS; JOHN McCANN;
PATRICIA AGUILAR; PAMELA
BENSOUSSAN; STEVE MIESEN

26 _____ **(BY MAIL)** As follows:

27 _____ I placed such envelope with postage thereon prepaid in the United States
28 mail at Encinitas, California.

_____ I am "readily familiar" with the firm's practice of collection and processing
correspondence for mailing. Under that practice it would be deposited with
the U.S. Postal Service on that same day with postage thereon fully prepaid
at Encinitas, California, in the ordinary course of business. I am aware that
on motion of the party served, service is presumed invalid if postal
cancellation or postage meter date is more than one day after date of
deposit for mailing in affidavit.

29 X **(BY ELECTRONIC MAIL)** I sent such document via electronic mail to the
address(es) noted above.

_____ **(BY ONELEGAL eService)** I caused such documents to be served via
electronic mail to the address(es) maintained by the Court.

30 X **(STATE)** I declare under penalty of perjury under the laws of the State of
California that the above is true and correct.

Executed on December 14, 2015 at Encinitas, California.



Sara S. Kent