

**CITY COUNCIL OF THE CITY OF SAN DIEGO
SUPPLEMENTAL DOCKET NUMBER 1
FOR THE REGULAR MEETING OF
MONDAY, NOVEMBER 29, 2004 AT 2:00 P.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

SPECIAL ORDERS OF BUSINESS

ITEM-S400: Marcia Haas Day.

COUNCILMEMBER ZUCCHET’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-638)

Proclaiming November 29, 2004, to be “Marcia Haas Day” in the City of San Diego and urging our citizens to join in the commemoration of this day.

ITEM-S401: Les Girard Day.

COUNCILMEMBER MAIENSCHIN’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-636)

Proclaiming November 29, 2004, to be “Les Girard Day” in the City of San Diego in recognition of the vital services that he has provided the citizens of San Diego.

ADOPTION AGENDA, CONSENT ITEMS
RESOLUTIONS:

* ITEM-S402: Settlement of Claim/Law Suit Brought By Paladin Aviation, Inc.

(Kearny Mesa Community Area. District 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-575)

A Resolution approved by the City Council in Closed Session on Tuesday, November 9, 2004, by the following vote: Zucchet-yea; Atkins-yea; Maienschein-yea; Madaffer-yea; Mayor-yea; Nays none; Peters-absent; Frye-absent; Inzunza-absent; District 4-vacant.

Authorizing the City Manager to expend a sum not to exceed \$3,500,000 in settlement of each and every claim against the City of San Diego, its agents and employees, in San Diego Superior Court Case No. GIC821416 (and all Consolidated actions, to wit: UC309996/GIC826820), Paladin Aviation, Inc. v. City of San Diego.;

Authorizing the City Manager and City Auditor and Comptroller to issue one check in the amount of \$297,866.19, made payable to Fox, Johns, Lazar, Pekin & Wexler Client Trust Account, from Fund 41100, Account No. 4141, Department 720, Organization Number 2102, Object Account 4141, Job Order 255357 for fees and attorneys costs;

Authorizing the City Manager and City Auditor and Comptroller to issue one check in the amount of \$443,011, made payable to Paladin Aviation, Inc., from Fund 41100, Account No. 4141, Department 720, Organization Number 2102, Object Account 4141, Job Order 255357, as a down payment on the purchase of Plaintiff's leasehold;

Authorizing the expenditure of an amount not to exceed \$2,759,122.81 from Fund 41100, Account No. 4141, Department 720, Organization Number 2102, Object Account 4141, Job Order 255357, to provide funds for the above annuity purchase to be made to Ringler & Associates, Inc., provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the fund necessary for this expenditure are, or will be, on deposit in the City Treasury;

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-S402: (Continued)

Authorizing the transfer of up to \$3,500,000 from the Airport Enterprise Fund balance, Fund 41100 to Fund 41100, Department 720, Org 2102, Object Account 4141, Job Order 255357, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the fund necessary for this expenditure are, or will be, on deposit in the City Treasury.

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

On November 9, 2004, the Mayor and Council, in Closed Session, approved the settlement of all disputed claims and related matters. The proposed action constitutes the complete and final settlement of the claim/lawsuit of Paladin Aviation, Inc., against the City of San Diego, as a result of on-going lease disputes.

Herring/Griffith/Means

Aud. Cert. 2500509.

NOTE: The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:

ITEM-S403: Agreement with Macias, Gini & Company, LLP for Audit Services for the City of San Diego Fiscal Year 2004 Financial Statements.

(See City Manager Report No. CMR-04-258.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-626)

Authorizing the City Manager, for the reasons set forth in City Manager's Report No. 04-258, to negotiate and execute, a sole source agreement with Macias, Gini, & Company, LLP, in an amount not to exceed \$715,479 for audit services for the City of San Diego Fiscal Year 2004 financial statements (Agreement) for the scope of services set forth in Attachment A to City Manager's Report No. 04-258;

Authorizing the City Auditor and Comptroller to appropriate an amount not to exceed \$11,555 from the EGF 1/3, Fund No. 105051 fund balance into Dept. No. 9321, Org. No. 2004, for audit services provided for the Open Space Bond Interest and Redemption Fund for Fiscal Year 2004, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$715,479 from accounting information provided in Box 8 of this 1472 (See attachment A for distribution of funds) for the purpose of providing funds for the above referenced Agreement, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department to transfer excess funds, if any, to the appropriate reserves.

Aud. Cert. 2500525.

ADOPTION AGENDA, DISCUSSION, HEARINGS

NOTICED HEARINGS:

ITEM-S404: Avalon Plaza.

(Continued from the meeting of November 23, 2004, Item 331, at the request of Councilmember Zucchet for further review.)

Matter of the appeal by Mayfair Homes, Inc., of the decision by the Planning Commission in denying the request for the waiver of undergrounding of utilities in connection with the Avalon Plaza project. Planning Commission approved the project on June 10, 2004, however they denied the request for the waiver of undergrounding of utilities. Avalon Plaza is an application for a Coastal Development Permit, Planned Development Permit and Tentative Map to construct a three-story mixed use building, to total approximately 47,595 square feet of gross floor area, with 24 two-bedroom residential units, 13 first floor commercial units, and a subterranean parking garage on a 24,883 square foot property. The project site is located at 924-936 Hornblend Street, between Cass Street and Bayard Street, within the CC-4-2 Zone, Coastal Overlay Zone, Coastal Height Limit Overlay Zone, Beach Parking Impact Overlay Zone and within the Pacific Beach Community Plan Area.

(See City Manager Report CMR-04-248. Pacific Beach Community Plan Area. District 2.)

NOTE: Hearing open. No testimony taken on 11/23/2004.)

CITY MANAGER'S RECOMMENDATION:

Adopt the resolution in subitem A; and adopt the resolution in subitem B to grant the appeal and grant the permits; and adopt the resolution in subitem C to grant the map and the waiver of undergrounding:

Subitem-A: (R-2005-)

Adoption of a Resolution certifying Mitigated Negative Declaration Project No. 13862, and adopting the Mitigation, Monitoring and Reporting Program (MMRP).

Subitem-B: (R-2005-)

Adoption of a Resolution granting or denying the appeal and granting or denying Coastal Development Permit No. 29920, and Planned Development Permit No. 29921, with appropriate findings to support Council action.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)
NOTICED HEARINGS: (Continued)

* ITEM-S404: (Continued)

Subitem-C: (R-2005-)

Adoption of a Resolution granting or denying Tentative and Waiver of Undergrounding No. 29944, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on June 10, 2004, voted 5-0 to approve the CDP/PDP and Tentative Map and to deny the Waiver of Undergrounding, along with staffs modifications that were read into the record; no opposition.

Ayes: Lettieri, Chase, Garcia, Ontai, Otsjusi

Abstaining: Steele

Not present: Schultz

The Pacific Beach Community Planning Committee has recommended approval of this project.

CITY MANAGER SUPPORTING INFORMATION:

The 24,883 square foot project site is currently vacant and fenced off. In the past, the site had been used as an open commercial parking lot, not tied to or containing required parking for any surrounding development. Surrounding the project site are predominately commercial land uses with some mixed-use. The project site is located at 924-936 Hornblend Street, on the north side of Hornblend just south of Garnet Avenue, between Cass Street and Bayard Street, within the CC-4-2 Zone, Coastal (non-appealable) Overlay Zone, Coastal Height Limit Overlay Zone, Beach Parking Impact Overlay Zone and within the Pacific Beach Community Plan Area. The proposed grading, construction, and subdivision all constitute, by definition, Coastal Development, which pursuant to the Land Development Code (Section 126.0702) requires a Coastal Development Permit. A Tentative Map is required, by the Land Development Code (Section 144.0202), for the proposed consolidation of the seven existing lots into a one lot subdivision for 24 condominium units. The applicant requested the Planned Development Permit in order that the project design can be reviewed for conformance as a transit-oriented development, which would allow for the increased residential density of up to 43 dwelling units per acre.

FISCAL IMPACT: None.

Loveland/Halbert/GRG

LEGAL DESCRIPTION:

The project site is located at 924-936 Hornblend Street within the Pacific Beach Community Planning Area and is more particularly described as Lots 27 thru 34 of Block 224 of Pacific Beach, Map Nos. 697 and 854.