

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, OCTOBER 1, 1996
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Golding at 10:11 a.m. Mayor Golding recessed the regular meeting at 10:18 a.m. to convene the Redevelopment Agency. Mayor Golding reconvened the regular meeting at 10:19 a.m. with all Council Members present.

The meeting was recessed by Mayor Golding at 12:07 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Deputy Mayor Stallings at 2:04 p.m. with all members present. Mayor Golding adjourned the meeting at 3:18 p.m.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Golding-present
 - (1) Council Member Mathis-present
 - (2) Council Member Wear-present
 - (3) Council Member Kehoe-present
 - (4) Council Member Stevens-present
 - (5) Council Member Warden-present
 - (6) Council Member Stallings-present
 - (7) Council Member McCarty-present
 - (8) Council Member Vargas-present
- Clerk-Abdelnour (mc/pr)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Golding-present
- (1) Council Member Mathis-present
- (2) Council Member Wear-present
- (3) Council Member Kehoe-present
- (4) Council Member Stevens-present
- (5) Council Member Warden-present
- (6) Council Member Stallings-present
- (7) Council Member McCarty-present
- (8) Council Member Vargas-present

PUBLIC COMMENT:

ITEM-PC-8:

Comment by Don Stillwell regarding the September 30, 1996 Council Meeting that was broadcasted at 9:00 p.m. instead of 7:00 p.m. as stated on the Council Docket. He also commented on the fact that a written request is now required to receive a copy of the video tape of the meeting.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A014-033.)

COUNCIL COMMENT:

None.

ITEM-202:

SUBJECT: Two actions related to Amended Agreements with the Padres L.P.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-97-264 Cor.Copy) ADOPTED AS AMENDED AS
RESOLUTION R-287881

Authorizing a Letter Agreement with Padres, L.P.,
amending the following agreements:

1) The Agreement for Partial Use and Occupancy of San Diego Jack Murphy Stadium between the City of San Diego and the San Diego National League Baseball Club, Inc., dated November 30, 1987, Document No. R-269870;

2) Supplement No. 1 to the Agreement for Partial Use and Occupancy of San Diego Jack Murphy Stadium between the City of San Diego and the San Diego National Baseball Club, Inc., dated September 10, 1984, Document No. RR-261527-1;

3) The Third Amendment to the 1983 Agreement for Concession, Restaurant and Catering Services at San Diego Jack Murphy Stadium between Service America and the City of San Diego, and the Addendum, dated October 31, 1995, Document No. OO-18227-1;

4) The Flat Rate Lease for Administrative Offices between the City of San Diego and the San Diego National League Baseball Club, Inc., dated January 23, 1989, Document No. RR-272727-1;

Authorizing the Auditor and Comptroller to transfer not to exceed \$1,426,000 from CIP-21-834.0, Balboa Park/Mission Bay Park Requirements, Fund No. 102244 to CIP-34-121.0, San Diego Jack Murphy Stadium Improvements, Fund 10332, to provide funding for expenses to be incurred for Stadium Expansion purposes to be repaid upon the receipt of bond proceeds;

Authorizing the expenditure of not to exceed \$1,426,000 from CIP-34-121.0, San Diego Jack Murphy Stadium Improvements, Fund 10332, for providing funds for expenses to be incurred for Stadium Expansion purposes to be repaid upon the receipt of bond proceeds;

Authorizing the City Manager to grant rent credits to Stadium tenants for permanent improvements made to the Stadium facility up to an annual maximum of \$270,000, subject to the City Auditor's verification of available funds.

Subitem-B: (R-97-265 Cor. Copy) ADOPTED AS AMENDED AS
RESOLUTION R-287882

Authorizing an Office Space Lease Agreement with Hyundai Precision America, Inc., for a not to exceed five-year period beginning November 1, 1996 through October 31, 2001, for 17,654 sq. ft. of office space at an average annual lease rate of approximately \$318,000 for a total not to exceed amount of \$1,240,000 for rental payments through March 31, 2000;

Authorizing the expenditure of not to exceed \$760,787 from Fund 10330, Stadium Operations, to pay for FY 1997 lease costs and expenses associated with the relocation of the Padres;

Authorizing a reduction of up to \$760,787 for appropriations from CIP-21-834.0, Balboa Park/Mission Bay Park Requirements and an appropriation of not to exceed \$760,787 from Fund 102244 for transfer to the Stadium Operations Fund 10330;

Authorizing a Letter Agreement with the Padres, L.P. (Padres Office Space Lease), for the Padres' use and occupancy of certain off-site office space, to replace the Padres' existing office space at San Diego Jack Murphy Stadium, from November 15, 1996 through March 31, 2000.

Aud. Cert. 9700270.

FILE LOCATION: Subitem A: LEAS - San Diego National
Baseball Club, Inc.; Subitem B: LEAS - Hyundai
Precision America, Inc. LEASFY97-3
Stadium #61 CONTFY97-2

COUNCIL ACTION: (Tape location: A081-494.)

MOTION BY VARGAS TO ADOPT THE RESOLUTIONS AS AMENDED TO APPROVE THE FOLLOWING CITY MANAGER RECOMMENDATIONS: 1) TO NOT TRANSFER THE \$1.4 MILLION FROM THE BALBOA PARK/MISSION

BAY FUND TO PAY FOR THE CURRENT CONSTRUCTION AND IMPROVEMENT PACKAGE AT THE STADIUM BUT RETURN IT TO THE CITY MANAGER; AND 2) WITH REGARD TO THE OFFICE SPACE LEASE AGREEMENT WITH HYUNDAI PRECISION AMERICA, INC., IN LIEU OF THE APPROPRIATION OF \$760,787 FROM THE BALBOA PARK/MISSION BAY PARK FUND, APPROPRIATE THE \$760,787 FROM THE GENERAL FUND UNALLOCATED RESERVE; THE CITY MANAGER WILL COME BACK TO COUNCIL WITH RECOMMENDATIONS ON HOW TO REPLACE THAT TRANSFER. Second by Stevens. Subitem A Vote (Without the transfer of \$1.4 million from the Balboa Park/Mission Bay Fund to the Stadium Fund): Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

Subitem B Vote (With the amendment to appropriate from the General Fund Unallocated Reserve rather than the Balboa Park/Mission Bay Fund): Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-nay, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-330:

SUBJECT: Appeal of Ruth J. Schneider, Chairperson of the Otay Mesa-Nestor Planning Committee, from the decision of the Planning Commission regarding the Hearing Officer's approval of River Trail Coastal Development Permit CDP-94-0546.

(Due to a lack of affirmative votes by the Planning Commission, the decision of the Hearing Officer to certify the Environmental Report and approve the permit, is sustained.)

(Otay Mesa-Nestor Community Plan Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt Subitem A; and adopt Subitem B to deny the appeal and grant the permit:

Subitem-A: (R-97-) NOTED AND FILED

Adoption of a Resolution certifying that the information contained in Addendum 94-0546 to Environmental Impact Report 87-1098 has been completed

in compliance with the California Environmental Quality Act of 1970 and State guidelines, and that said report has been reviewed and considered by the Council and adopting appropriate findings of mitigation, pursuant to California Public Resources Code Section 21081.

Subitem-B: (R-97-382) GRANTED APPEAL, DENIED PERMIT,
ADOPTED AS RESOLUTION R-287883

Adoption of a Resolution granting or denying the appeal and granting or denying the permit, with appropriate findings to support Council action.

SUPPORTING INFORMATION:

The Coastal Development Permit will allow the subdivision of a 10.5 acre parcel into 47 lots and the construction of 45 single family homes which was approved by the City Council on January 7, 1992 as part of Planned Infill Residential Permit Resource Protection Overlay Zone Permit/Tentative Map #87-1098.

On September 10, 1996, Council voted 8-0 to hear the appeal, with District 2 not present.

LEGAL DESCRIPTION:

The subject 6.65 acre property is located on the west side of Hollister Street, south of Madreselva Street, and north of Sunset Avenue, in the R-1-5000 Zone, Floodplain Fringe Overlay Zone, FW Zone of the Otay Mesa-Nestor Community Plan area.

FILE LOCATION: PERM - CDP-94-0546

COUNCIL ACTION: (Tape location: A501-C189.)

Hearing began at 10:50 a.m. and halted at 11:55 a.m.

Testimony in opposition by Bob Filner, Ruth Schneider, Yolanda Robledo, David Gomez, William Wootton, and Wayne Dickey.

Testimony in favor by Rick Rubin, Dr. Joe Peus, and George Blackmar.

MOTION BY VARGAS TO APPROVE THE APPEAL AND DENY THE PERMIT BASED ON THE FACT THAT COUNCIL CANNOT MAKE FINDING "F" WHICH STATES THAT "THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATIONS AND NATURAL LAND FORM AND WILL NOT RESULT IN UNDO RISKS FROM GEOLOGICAL AND EROSIONAL FORCES AND/OR FLOOD AND FIRE HAZARDS." DIRECT THE CITY ATTORNEY TO COLLECT THE SUM OF THE COMMENTS MADE HERE TODAY, INCLUDING THE 1993 FLOODING, AND THE CREDIBLE VISUAL EVIDENCE AND TESTIMONY THAT WAS GIVEN TODAY BY MEMBERS OF THE PUBLIC WHO LIVE IN THE AREA, AS THE BASIS TO REJECT THIS PERMIT. DIRECT STAFF THAT WHEN THEY COME BACK WITH THE OTAY MESA NESTOR COMMUNITY PLAN UPDATE, THAT ALTERNATIVE LAND USE ZONING DESIGNATIONS BE CONSIDERED THAT WOULD ALLEVIATE SOME OF THE CONCERNS, WHETHER THEY BE FOR AGRICULTURAL ZONING OR SOME OTHER ZONING, ALLOWING THE PROPERTY OWNER REASONABLE OPPORTUNITY TO USE THEIR PROPERTY AND TO AVOID PUTTING COUNCIL IN THIS QUANDARY IN THE FUTURE. Second by Stallings. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-yea, McCarty-nay, Vargas-yea, Mayor Golding-yea.

ITEM-331:

SUBJECT: Two actions related to Condemnation Action for Coral Cove Renaissance Park.

(See City Manager Report CMR-96-186. Carmel Valley Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-97-283) ADOPTED AS RESOLUTION R-287884

FINDINGS MUST BE MADE AS PART OF COUNCIL ADOPTION

Determining and declaring that the public interest, convenience and necessity of the City of San Diego requires the acquisition of one parcel of property to complete the construction, operation and maintenance of a Community Park in conformance with the North City West Neighborhood 6 Precise Plan for the Project known as Coral Cove Renaissance Park, a 0.247 acre parcel located east of I-5, at the

northwest corner of the intersection of Valley Center Drive and Carmel View Road in the Carmel Valley Area, and that the public interest, convenience and necessity demand the acquisition of fee simple absolute to the property for said Park Project;

Declaring that the property is deemed necessary for completion the Coral Cove Renaissance Park Project as set forth in the Neighborhood 6 Precise Plan;

Declaring the intention of the City to acquire the property under eminent domain proceedings;

Declaring that an offer to purchase the property pursuant to Government Code Section 7267.2 has been made to the record owners of the property and the offer rejected;

Directing the City Attorney to commence an action in the Superior Court of the State of California, in and for the County of San Diego, for the purpose of condemning the property and acquiring immediate possession.

Subitem-B: (R-97-284) ADOPTED AS RESOLUTION R-287885

Authorizing the expenditure of not to exceed \$10,000 from Fund 30244, Organization 105, Object Account 4279, CIP-29-6450, for costs related to condemnation of fee title in connection with the acquisition of property for the construction, operation and maintenance of the Coral Cove Renaissance Park Project.

Aud. Cert. 9700078.

FILE LOCATION: Subitems A,B: MEET
Subitem A: Final Order of Condemnation
F-7142
COUNCIL ACTION: (Tape location: A034-070.)

Hearing began at 10:12 a.m. and halted at 10:17 a.m.

CONSENT MOTION BY McCARTY TO ADOPT THE RESOLUTIONS FOR ITEMS 331 AND 333, AND TO INTRODUCE, DISPENSE WITH THE READING AND ADOPT THE ORDINANCE FOR ITEM 332. Second by Mathis. Passed

by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-332:

SUBJECT: Amending the Annual Budget for the Fiscal Year 1996-97 to Establish the San Diego Jack Murphy Stadium Operations Fund.

CITY ATTORNEY'S RECOMMENDATION:

Introduce and adopt the following ordinance:

(O-97-51) INTRODUCED AND ADOPTED AS ORDINANCE O-18350 (New Series)

Introduction and Adoption of an Ordinance amending Ordinance O-18328 (New Series) entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 1996-97 by Appropriating the Necessary Money to Operate the City of San Diego for said Fiscal Year" to establish the San Diego Jack Murphy Stadium Operations Fund 10330 as a Special Fund.

NOTE: The first public hearing of this Ordinance was held on Monday, September 30, 1996, Item 59. Today's action is the second public hearing for the introduction and adoption of the Ordinance.

FILE LOCATION: MEET #61 - STADIUM

COUNCIL ACTION: (Tape location: A034-070.)

CONSENT MOTION BY McCARTY TO ADOPT THE RESOLUTIONS FOR ITEMS 331, AND 333, AND TO INTRODUCE, DISPENSE WITH THE READING AND ADOPT THE ORDINANCE FOR ITEM 332. Second by Mathis. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-nay, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-333:

(Continued from the meeting of September 17, 1996, Item 332, at Councilmember McCarty's request, for a report from the Select Committee.)

SUBJECT: Housing Trust Fund Fiscal Year 1997 Implementation Strategy and Model Programs.

(See San Diego Housing Commission Report HCR-96-007.)

SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:

Adopt the following resolution:

(R-96-1450) ADOPTED AS RESOLUTION R-287886

Approving the San Diego Housing Trust Fund Three-Year Program Plan (FY95 - FY97) and Fiscal Year 1997 Implementation Strategy.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A034-070.)

CONSENT MOTION BY McCARTY TO ADOPT THE RESOLUTIONS FOR ITEMS 331 AND 333 AND TO INTRODUCE, DISPENSE WITH THE READING AND ADOPT THE ORDINANCE FOR ITEM 332. Second by Mathis. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-nay, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-334:

SUBJECT: Adoption of Sewer Service Charges.

(See City Manager Report CMR-96-194.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-97-319 Cor. Copy) ADOPTED AS RESOLUTION R-287892

Directing the City Manager to increase sewer service charges by 6 percent immediately (FY 1997) and by 6

percent on July 1, 1997 (FY 1998), consistent with the Sewer Revenue Fund Financing Plan previously adopted by City Council on October 19, 1995, pursuant to San Diego Municipal Code Section 64.0404;

Directing the City Manager to continue to pursue measures to improve the financial position of the City's Sewer Revenue Fund (resolution of disputed Metropolitan Participating Agency billings, passage of federal legislation to allow permanent secondary treatment equivalency, implementation of further productivity gains via competition, etc.), and to return to Council with results, including any impacts to sewer service charges;

Directing the City Manager to begin preparation for the next issuance of Sewer Revenue Bonds to fund the Metropolitan Wastewater Plan.

FILE LOCATION: WATER - Sewer Service Charges

COUNCIL ACTION: (Tape location: C190-254; D020-E385.)

Trailed to afternoon session.

MOTION BY WARDEN TO ADOPT THE RESOLUTION WITH DIRECTION TO THE CITY MANAGER TO: 1) INCREASE SEWER SERVICE CHARGES BY 6% IMMEDIATELY AND BY 6% ON JULY 1, 1997, CONSISTENT WITH SEWER REVENUE FUND FINANCING PLAN PREVIOUSLY ADOPTED BY CITY COUNCIL ON OCTOBER 10, 1995; 2) TO CONTINUE TO PURSUE MEASURES TO IMPROVE THE FINANCIAL POSITION OF THE CITY'S SEWER REVENUE FUND AND TO RETURN TO COUNCIL WITH RESULTS INCLUDING ANY IMPACTS TO SEWER SERVICE CHARGES; 3) RETURN TO THE NATURAL RESOURCES AND CULTURE COMMITTEE IN OCTOBER OR NOVEMBER OF 1996 TO REVIEW INTERDEPARTMENT CHARGES AND; 4) BEGIN PREPARATION FOR THE NEXT ISSUANCE OF SEWER REVENUE BONDS TO FUND THE METROPOLITAN WASTEWATER PLAN. Second by Stallings. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-nay, Stevens-yea, Warden-yea, Stallings-yea, McCarty-nay, Vargas-nay, Mayor Golding-yea.

ITEM-CS-1: (R-97-332) ADOPTED AS RESOLUTION R-287887

A Resolution adopted by the City Council in Closed Session on October 1, 1996:

Authorizing the City Manager to pay the sum of \$75,000 in settlement of each and every claim against the City, its agents and employees, resulting from the personal injury to Shelia Campbell; authorizing the City Auditor and Comptroller to issue one check in the amount of \$75,000 made payable to Shelia Campbell, Marilyn Foster, and their attorney of record George Weingarten.

Aud. Cert. 9700284

FILE LOCATION: MEET

ITEM-CS-2: (R-97-314) ADOPTED AS RESOLUTION R-287888

A Resolution adopted by the City Council in Closed Session on October 1, 1996:

Authorizing the City Manager to pay the sum of \$35,000 in the settlement of each and every claim against the City of San Diego, its agents and employees resulting from injuries sustained by plaintiff John T. Burke during and subsequent to his arrest on August 31, 1995 in the 4900 block of Newport Avenue in the City of San Diego, United States District Court Case No. 95-3987B (BTM); authorizing the City Auditor and Comptroller to issue one check in the amount of \$35,000 made payable to John T. Burke and his attorney of record Michael R. Marrinan, in full settlement of the lawsuit and of all claims made therein.

Aud. Cert. 9700338

FILE LOCATION: MEET

ITEM-CS-3: (R-97-370 COR. COPY) ADOPTED AS RESOLUTION R-287889

A Resolution adopted by the City Council in Closed Session on October 1, 1996:

Authorizing the City Manager to pay the total sum of \$53,500 in settlement of each and every claim against the City of

San Diego, its agents and employees, resulting from the personal injury claim of Adonis Lagandaon, et al; authorizing the City Auditor and Comptroller to issue one check in the amount of \$23,500 made payable to Adonis Lagandaon and his Attorney of record, Morris Sankary in full settlement of all claims; authorizing the City Auditor and Comptroller to set aside and expend an amount not to exceed \$30,000 for the purpose of settlement of the personal injury claim of Pamela Viloría.

Aud. Cert. 9700339

FILE LOCATION: MEET

ITEM-CS-4: (R-97-372) ADOPTED AS RESOLUTION R-287890

A Resolution adopted by the City Council in Closed Session on October 1, 1996:

Authorizing the City Manager to pay the sum of \$180,000 in settlement of each and every claim against the City, its agents and employees, in Superior Court Case No. 693384 resulting from the contract dispute between Burns & Sons Trucking Inc., and the City of San Diego; authorizing the City Auditor and Comptroller to issue one check in the amount of \$180,000 made payable to Burns & Sons Trucking, Inc., and its attorney of record, Corona & Balistreri.

Aud Cert. 9700336

FILE LOCATION: MEET

ITEM-CS-5: (R-97-349) ADOPTED AS RESOLUTION R-287891

A Resolution adopted by the City Council in Closed Session on October 1, 1996:

Authorizing the City Manager to pay the sum of \$52,615.76 in the settlement of each and every claim against The City of San Diego, its agents and employees resulting from the property damage claim of Clark & Judith George; authorizing

the City Auditor and Comptroller to issue one check in the amount of \$52,615.76, made payable to Luth & Turley, Inc., in full settlement of all claims as a result of an incident which occurred on November 4, 1995.

Aud. Cert. 9700321

FILE LOCATION: MEET

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Golding at 3:18 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: E386.)