

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, OCTOBER 30, 2000  
AT 10:00 A.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

**Table of Contents**

CHRONOLOGY OF THE MEETING	3
ATTENDANCE DURING THE MEETING:	3
ITEM-1:          ROLL CALL	5
ITEM-10:  INVOCATION	5
ITEM-20:  PLEDGE OF ALLEGIANCE	5
NON-AGENDA COMMENT:	5
COUNCIL COMMENT:	8
* ITEM-50:  Hearst Elementary School Joint Use Improvements.	8
* ITEM-51:  Police Regulated Ordinances Regarding Peep Shows and Nude Entertainment Establishments.	9
* ITEM-52:  Proposed Ordinance Restricting Outdoor Advertising of Alcohol.	12
* ITEM-100:  Adding a November 15, 2000, Public Safety and Neighborhood Services Committee Meeting.	13
* ITEM-101:  Hickman Field Exchange.	13
* ITEM-102:  Authorizing Agreements with Point Loma High School Foundation and Alumni Foundation, and United Veterans Coalition.	14
ITEM-103:  Selection of State Representation for the City of San Diego.	16

ITEM-200: Community Energy Partnership Program.	17
ITEM-201: Appointments to the Commission for Arts and Culture.	17
* ITEM-S400: Declaring a State of Emergency Regarding Electrical Services.	18
* ITEM-S401: <u>Four</u> actions related to the Final Subdivision Map of Black Mountain Ranch Unit No. 2.	19
* ITEM-S402: Point Loma High School Day.	21
ITEM-S403: Designating the Jacaranda as the Official Urban Tree of the City of San Diego and the Torrey Pine as the Official Native Tree of the City of San Diego.	22
ITEM-S404: Mission Bay Park Boundary Survey.	22
ITEM-S405: McKinley Tentative Parcel Map.	23
ITEM-S406: Old Town Trolley Tours.	26
PUBLIC NOTICE:	30
ITEM-S407: Point Loma Central Boiler Facility.	29
ITEM-250: Settlement of Property Damage Claim of David Lorimer Architect & Associates, et al.	29
ITEM-251: Settlement of Property Damage Claim of Reinhold Metzger.	30
ITEM-252: Settlement of Property Damage Claim of Chromagen, et al.	31
ITEM-253: Notice of Completion and Acceptance of Subdivision Improvement Agreement.	32
NON-DOCKET:	32
ADJOURNMENT:	32

#### CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Golding at 10:12 a.m. The meeting was recessed by Mayor Golding at 12:08 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Golding at 2:15 p.m. with all members present. The meeting was adjourned by Mayor Golding at 5:32 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 Blair-present
- (6) Council Member Stallings-present
- (7) Council Member McCarty-present
- (8) Council Member Vargas-present
- Clerk-Abdelnour (er/rl)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Fishkin called the roll:

- (M) Mayor Golding-present
- (1) Council Member Mathis-present
- (2) Council Member Wear-present
- (3) Council Member Kehoe-not present
- (4) Council Member Stevens-not present
- (5) Council Member Blair-present
- (6) Council Member Stallings-not present
- (7) Council Member McCarty-present
- (8) Council Member Vargas-present

ITEM-10: INVOCATION

Invocation was given by Pastor Rob Richards of Horizon Christian Fellowship.

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Wear.

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Comment by Leo Long regarding the De Anza Project and development in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A047-070.)

PUBLIC COMMENT-2:

Comment by Don Stillwell regarding City of San Diego investments.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A072-094.)

PUBLIC COMMENT-3:

Comment by Ray Holfuls regarding the De Anza Cove Community.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A096-116.)

PUBLIC COMMENT-4:

Comment by Joy Jones regarding unaffordable rents and rent control.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A118-145.)

PUBLIC COMMENT-5:

Comment by Donald Ray, Jr. regarding St. Vincent DePaul and his complaint against the homeless shelter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A147-175.)

PUBLIC COMMENT-6:

Forrest Curo commented that the homeless issue should be dealt with as an emergency situation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A197-217.)

PUBLIC COMMENT-7:

Comment by Jack Winer regarding the Library Ordinance that will be before Council on November 14, 2000.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A219-230.)

PUBLIC COMMENT-8:

Comment by Scott Andrews regarding political influence in Mission Bay Park.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A233-254.)

PUBLIC COMMENT-9:

Comment by Diane Dixon regarding the winter homeless family shelter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A257-283.)

PUBLIC COMMENT-10:

Comment by Kevin Erwin requesting that Council consider proclaiming a Falun Dafa Day in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A284-307.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member McCarty commented that she is please that the Library issue has been docketed for November 14th.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A315-318.)

\* ITEM-50: Hearst Elementary School Joint Use Improvements.

(Navajo Community Area. District-7.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 10/17/2000. (Council voted 8-0. Councilmember Stevens not present.):

(O-2001-34 Cor. Copy) ADOPTED AS ORDINANCE O-18874 (New Series)

Authorizing a twenty-five year agreement for the construction, operation, maintenance, and lease of turfed fields and recreation facilities at Hearst Elementary School Site with the San Diego Unified School District of San Diego County, California; authorizing an agreement for partial assignment of joint use agreement at the Hearst Elementary School Site and terms of reimbursement to the Phoebe Hearst Elementary School Foundation; accepting from and thanking the Del Cerro Community for their donation of \$75,000 for Phase 1 of the Hearst Elementary School - Joint Use Improvements Project; authorizing the appropriation of \$330,525 for Phase 1 of the Hearst Elementary School - Joint Use Improvements Project; authorizing the expenditure of \$330,525 from CIP-29-530.0, Hearst Elementary School - Joint Use Improvements, for Construction of Phase I of the Hearst Elementary School - Joint Use Improvements Project; and directing the City Manager to manage the turfed fields and recreation facilities at the Hearst Elementary School as a day use facility.

**NOTE:** 6 votes required pursuant to Section 99 of the City Charter.

FILE LOCATION: LEAS - San Diego Unified School District - Hearst Elementary School

COUNCIL ACTION: (Tape location: A400-479.)

CONSENT MOTION BY WEAR TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Kehoe. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-not present, Blair-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

\* ITEM-51: Police Regulated Ordinances Regarding Peep Shows and Nude Entertainment Establishments.

**NOTE:** The public testimony portion of the hearing is closed.



**TODAY'S ACTIONS ARE:**

Adopt the ordinances in Subitems A, B, and C which were introduced on 10/16/2000. (Council voted as follows: 1. Motion to adopt Committee recommendation minus the hours of operation. - Councilmembers Mathis, Kehoe, Blair, Stallings, and McCarty voted yea; Councilmembers Wear, Vargas, and Mayor Golding voted nay; Councilmember Stevens not present. 2. Motion to adopt hours of operation to be closed between the hours of 2:00 a.m. and 6:00 a.m. - Councilmembers Mathis, Kehoe, Blair, Stallings, McCarty, Vargas, and Mayor Golding voted yea; Councilmember Wear voted nay; Councilmember Stevens not present.)

Subitem-A: (O-2001-10) ADOPTED AS ORDINANCE O-18875 (New Series)

Amending Chapter III, Article 3, Division 28, of the San Diego Municipal Code by repealing section 33.2801; amending and renumbering section 33.2802 to 33.2801; repealing section 33.2803; amending and renumbering sections 33.2804 and 33.2805 to 33.2802 and 33.2803; adding new sections 33.2804 and 33.2805; repealing sections 33.2806, 33.2807, 33.2808 and 33.2809; adding new sections 33.2806 and 33.2807; amending and renumbering section 33.2810 to 33.2808; adding new sections 33.2809, 33.2810 and 33.2811; repealing sections 33.2814, 33.2815, 33.2816, 33.2817 and 33.2818; amending and renumbering section 33.2819 to 33.2812; adding new sections 33.2813 and 33.2814; and repealing sections 33.2820, 33.2821 and 33.2822; all relating to Outcall Nude Entertainment.

Subitem-B: (O-2001-8) ADOPTED AS ORDINANCE O-18876 (New Series)

Amending Chapter III, Article 3, Division 36, of the San Diego Municipal Code by amending the title of Division 36 to "Nude Entertainment Business"; repealing section 33.3601; amending and renumbering section 33.3602 to 33.3601; repealing section 33.3603; amending and renumbering section 33.3604 to 33.3602; adding new section 33.3603; amending and renumbering section 33.3605 to 33.3604; amending and renumbering section 33.3606 to 33.3605; adding new section 33.3606; repealing sections 33.3607, 33.3608, 33.3609, 33.3610, 33.3611, 33.3612, 33.3613, 33.3614, 33.3615, 33.3616 and 33.3620; and adding new sections 33.3606, 33.3607, 33.3608, 33.3609, 33.3610 and 33.3611; all relating to Nude Entertainment Business.

Subitem-C: (O-2001-6) INTRODUCED AS AMENDED; TO BE ADOPTED  
MONDAY, NOVEMBER 20, 2000.

Amending Chapter III, Article 3, Division 33, of the San Diego Municipal Code by amending sections 33.3301, 33.3302 and 33.3303; repealing section 33.3304; amending and renumbering section 33.3305 to 33.3304; adding new sections 33.3305, 33.3306 and 33.3307; repealing section 33.3313; amending and renumbering section 33.3315 to 33.3308; amending and renumbering section 33.3314 to 33.3309; amending and renumbering section 33.3319 to 33.3310; adding new sections 33.3311, 33.3312, 33.3313, and 33.3314; repealing existing sections 33.3315, 33.3316, 33.3317, and 33.3318, and adding new sections 33.3315, 33.3316, 33.3317, and 33.3318; adding a new section 33.3319; repealing existing sections 33.3320, 33.3321, 33.3322, 33.3323, 33.3324, 33.3325, and 33.3326, and adding new sections 33.3320, 33.3321, 33.3322, 33.3323, 33.3324, 33.3325, 33.3326, and 33.3327; all relating to Peep Show Establishments.

**NOTE:** There may be a revised Ordinance O-2001-6 (Rev. 1) that may be considered for introduction as a substitute for this Ordinance in subitem C.

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**FILE LOCATION:** Subitems A,B: MEET  
Subitems C: NONE

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**COUNCIL ACTION:** (Tape location: F525-G289.)

MOTION BY MATHIS TO ADOPT SUBITEMS 51A AND 51B; NOT TO INCLUDE DOORS ON OR DOORS OFF STALLS. Second by Blair. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Blair-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

MOTION BY VARGAS TO INTRODUCE SUBITEM 51C AS AMENDED TO HAVE DOORS OFF OF STALLS. Second by Stevens. Passed by the following vote: Mathis-nay, Wear-yea, Kehoe-nay, Stevens-yea, Blair-nay, Stallings-nay, McCarty-yea, Vargas-yea, Mayor Golding-yea.

\* ITEM-52: Proposed Ordinance Restricting Outdoor Advertising of Alcohol.

(See City Attorney and City Manager's 9/7/2000 joint report; Lisa A Joley's 6/27/2000 letter; Ron Fowler's 5/19/2000 letter; Lynn Migdal's 5/1/2000 letter; Amy R. Elliott's 2/15/2000 letter.)

**TODAY'S ACTION IS:**

Introduce the following ordinance:

(O-2001-91) INTRODUCED; TO BE ADOPTED ON TUESDAY,  
NOVEMBER 14, 2000.

Introduction of an Ordinance amending Chapter V, Article 8, of the San Diego Municipal Code by adding Division 4, Sections 58.0401, 58.0402, 58.0403, and 58.0404 all pertaining to restricting the advertising of alcohol beverages to youth.

**PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE'S  
RECOMMENDATION:**

On 9/13/2000, PS&NS voted 4-0 to approve the creation of an ordinance restricting outdoor advertising of alcohol. The City Attorney was directed to forward the completed ordinance to City Council for discussion. The City Manager was directed to refine and confirm the mapping of billboards and specified locations as identified by the Committee. The City Manager was also directed to review the definitions and description of "arcades" and to develop a master list inventory of billboard locations in the City. (Councilmembers Mathis, Wear, Stevens, and Stallings voted yea.)

FILE LOCATION: NONE

COUNCIL ACTION: (Tape location: G290-H239.)

MOTION BY STEVENS TO INTRODUCE. Second by Wear. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Blair-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

\* ITEM-100: Adding a November 15, 2000, Public Safety and Neighborhood Services Committee Meeting.

**PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2001-676) ADOPTED AS RESOLUTION R-294067

Amending the schedule of meetings for the City Council and Standing Committees of the City Council for the period of January 1, 2000 through December 31, 2000, to add a meeting of the Public Safety and Neighborhood Services Committee on Wednesday, November 15, 2000 at 9:00 a.m., to be held in the Council Committee Room, 202 C Street, San Diego, California, 12<sup>th</sup> floor.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A400-479.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Kehoe. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-not present, Blair-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

\* ITEM-101: Hickman Field Exchange.

(Miramar Community Area. District-5.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2001-642) ADOPTED AS RESOLUTION R-294068

Authorizing the City Manager to execute a First Amendment to Land Exchange Agreement with the United States of America.

**CITY MANAGER SUPPORTING INFORMATION:**

On December 8, 1986, the City Council approved Resolution R-267203 authorizing a "Land Exchange Agreement between the United States of America and the City". As a last minute addition to the Agreement, the City requested an easement reservation, in favor of the City, for development of a police and fire training academy over a 160-acre parcel, identified as the "Park Property," to be conveyed to the Navy. In an accommodation to the City and without the requirement for additional compensation, the Navy agreed to the easement reservation. It has since been determined that the property in question is too environmentally sensitive for development and consequently, the Navy has requested that the City remove the easement reservation language, without the requirement for compensation, prior to deeding the property to the Navy.

With the approval of this action, the City will be able to complete the exchange and acquire the 42-acre park parcel known as "Hickman Field".

**FISCAL IMPACT:**

None.

Loveland/Griffith/BLM

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A400-479.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Kehoe. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-not present, Blair-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

\* ITEM-102: Authorizing Agreements with Point Loma High School Foundation and Alumni Foundation, and United Veterans Coalition.

(District-2.)

**COUNCILMEMBER WEAR'S RECOMMENDATION:**

Adopt the following resolution:

(R-2001-678) ADOPTED AS RESOLUTION R-294069

Authorizing the City Manager to execute agreements with Point Loma High School Foundation and Alumni Foundation, and United Veterans Coalition for \$10,000 each;

Authorizing the expenditure of an amount not to exceed \$20,000.

**SUPPORTING INFORMATION:**

Subsequent to Fiscal Year 2001 City Council Budget deliberations, \$20,000 of District 2 CDBG funds have been identified to be allocated to the Bayview Terrace Elementary School Joint-Use Facility Project, CIP-29-836.0. As a result of this action, \$20,000 is available for reallocation. This action would allocate these funds in the following manner: \$10,000 to the Point Loma High School Foundation and Alumni Association for repairs to outdoor campus furniture which includes tables, benches and trash receptacles which were damaged as a result of vandalism, and \$10,000 for the United Veteran's Coalition - Veteran's parade which honors San Diego's 320,000 military veterans.

JVD

Aud. Cert. 2100463.

\_\_\_\_\_ FILE LOCATION:                      MEET

\_\_\_\_\_ COUNCIL ACTION:                      (Tape location: A400-479.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Kehoe. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-not present, Blair-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-103: Selection of State Representation for the City of San Diego.

(See Intergovernmental Relations Department Report IRD-00-06.)

**TODAY'S ACTION IS:**

Adoption of the following resolution:

(R-2001-680) ADOPTED AS RESOLUTION R-294079

Authorizing the Director of the Intergovernmental Relations Department and the City Manager to execute a Personal Services Agreement for Legislative Representation and Consulting Services with Joint Venture of Sloat, Higgins, Jensen and Associates, and Marston & Marston, Inc., for a period of twenty-four (24) months, commencing on November 1, 2000, with a one-year review by the Council of the City of San Diego.

**RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S RECOMMENDATION:**

On 10/11/2000, Rules Committee voted 3 to 0 to accept the recommendation of the Intergovernmental Relations Department Director. (Councilmembers Mathis, Wear and Vargas voted yea. Mayor not present.)

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: H240-449.)

MOTION BY STALLINGS TO ADOPT; ACCEPTING THE JOINT VENTURE OF SLOAT, HIGGINS, JENSEN AND ASSOCIATES AND MARSTON & MARSTON, INC., FOR ONE YEAR WITH THE OPTION TO RENEW FOR A SECOND YEAR PROVIDED THAT THE ONE YEAR REVIEW IS A GOOD ONE. IF THE REVIEW IS NOT GOOD, STAFF IS REQUESTED TO CONDUCT THE RFP PROCESS AND COMPLETE IT IN A TIMELY FASHION. Second by Mathis. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-not present, Stevens-yea, Blair-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-200: Community Energy Partnership Program.

(See City Manager Report CMR-00-227.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2001-660) ADOPTED AS RESOLUTION R-294070

Establishing a Council Policy regarding conservation of energy which provides incentives and encourages energy-efficient practices in the building industry.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A487-582.)

MOTION BY WEAR TO ADOPT. Second by Kehoe. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Blair-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-201: Appointments to the Commission for Arts and Culture.

(See memorandum from Mayor Golding dated October 20, 2000 with resume attached.)

**MAYOR GOLDING'S RECOMMENDATION:**

Adopt the following resolution:

(R-2001-684) ADOPTED AS RESOLUTION R-294071

Council confirmation of the following appointment and reappointments by the Mayor to serve as members of the Commission for Arts and Culture, for terms ending as indicated:



<u>Appointment</u>	<u>Term ending</u>
Anthony Tri Tran (replacing Gerry McAllister, whose term has expired)	August 31, 2002

<u>Reappointments</u>	
Josephine Briggs	August 31, 2002
Vivian M. Reznik	August 31, 2002
Calvin Woo	August 31, 2002
Roger Cornell	August 31, 2002

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A487-582.)

MOTION BY WEAR TO ADOPT. Second by Kehoe. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Blair-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

\* ITEM-S400: Declaring a State of Emergency Regarding Electrical Services.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2001-525) ADOPTED AS RESOLUTION R-294072

Declaring the existence of a state of emergency within the City relating to electrical bill volatility and extraordinary high electrical rates.

**CITY MANAGER SUPPORTING INFORMATION:**

As the result of recent power deregulation in the State of California, the residents of San Diego and the City itself are no longer provided electricity at statutorily regulated prices. As a result, the City and its residents have been subject to unprecedented energy bill increases and subjected to severe economic hardships due to unprecedented electric bill volatility and extraordinarily high electrical rate levels. While the California Assembly put a price cap on these rates, the full price of purchased electricity could become due in the next year.

On September 6, 2000, the State of California passed emergency legislation in the form of Assembly Bill AB-265 finding that the present electrical utility situation created an eminent danger to the public peace, health and safety. Additionally, the California Legislature enacted AB-970 which will make grants and loans available to fund energy related projects to mitigate the cost of electric service during this emergency. As a result of the significant economic impact on the City and its citizens, the City Manager is requesting the Mayor and Council to declare a state of emergency in accordance with the City Charter and the Municipal Code section 51.0106 and to authorize the City Manager, or his duly designated representative, to conduct all negotiations, execute and submit all documents and/or contracts, and apply for and enter into all grant/loan agreements required to fund energy conservation projects under the State of California's grant funding for energy conservation programs, such as those to be funded under AB-970 or similar legislation passed by the State of California for Energy Conservation Programs.

**FISCAL IMPACT:**

There are no costs associated with the proposed actions.

Belock/Schlesinger/DQG

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A400-479.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Kehoe. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-not present, Blair-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

\* ITEM-S401: Four actions related to the Final Subdivision Map of Black Mountain Ranch Unit No. 2.

(North City Future Urbanizing Area Subarea 1A. District-1)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2001-705) ADOPTED AS RESOLUTION R-294073

Authorizing a Subdivision Improvement Agreement with Santaluz, LLC for the installation and completion of certain public improvements.

Subitem-B: (R-2001-704) ADOPTED AS RESOLUTION R-294074

Approving the final map.

Subitem-C: (R-2001-706) ADOPTED AS RESOLUTION R-294075

Authorizing a Landscape Maintenance Agreement with Santaluz, LLC, for the maintenance of landscaping.

Subitem-D: (R-2001-707) ADOPTED AS RESOLUTION R-294076

Accepting a grant deed of Santaluz, LLC, granting to the City Lots 131 and 149 of Black Mountain Ranch, Unit No. 2 for open space purposes.

#### **CITY MANAGER SUPPORTING INFORMATION**

This map proposes the subdivision of a 166.574 acre site into 152 lots, 135 lots for residential development, 15 lots for private driveways and two lots for open space. It is located northwesterly of Black Mountain Road and SR 56 in the North City Future Urbanizing Area Subarea 1A Community Plan Area. On October 31, 1995 the Council of the City of San Diego approved City Council Resolution R-286502 for Black Mountain Ranch. The City Engineer has approved the final map and states that all conditions of the Tentative Map have been satisfied. The public improvements required for this subdivision are shown in detail on Drawing Nos. 30323-1-D through 30323-31-D, filed in the Office of the City Clerk under Micro Number 140.55. All improvements are to be completed within two years. The Engineer's estimate for the cost of public improvements is \$3,460,752 and a Performance Bond in that amount has been provided as surety. A cash bond in the amount of \$92,000 as determined by the surveyor's estimate, has been posted as surety for the setting of survey monuments. This subdivision is located within the North City Future Urbanizing Area Subarea IA Public Facilities Financing Plan area, which provides for the payment of Facilities Benefits Assessment (FBA), which includes parks, at the time of building permit issuance. This community may be subject to impact fees, as established by the City Council, at the time of building permit issuance. Subdivider, by letter, has given assurance to the City of San Diego that he subscribes to the Affirmative Marketing Program as shown in the "Memorandum of Understanding between the

San Diego Building Industry Association and U.S. Department of Housing and Urban Development". Subdivider shall enter into a Landscape Maintenance Agreement, agreeing to maintain all landscaping and appurtenances thereto within the City right-of-way adjacent to this subdivision, until another mechanism is established and assumes maintenance responsibility. Lots 131 and 149 are being deeded to the City at no cost. The lots total 18.610 acres in size. No park fee credit is being granted by this action. The lots are to be used for open space purposes.

**FISCAL IMPACT:**

None.

Loveland/Haase/SH

FILE LOCATION: SUBITEMS A, B, C: SUBD - Black Mountain Ranch Unit  
No. 2 (40)  
SUBITEM D: DEED F-7889

COUNCIL ACTION: (Tape location: A400-479.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Kehoe. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-not present, Blair-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

\* ITEM-S402: Point Loma High School Day.

**COUNCILMEMBER WEAR'S RECOMMENDATION:**

Adopt the following resolution:

(R-2001-709) ADOPTED AS RESOLUTION R-294077

Commending Point Loma High School in commemoration of 75 years of service to San Diego;

Proclaiming Saturday, November 4, 2000 to be "Point Loma High School Day" in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A400-479.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Kehoe. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-not present, Blair-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-S403: Designating the Jacaranda as the Official Urban Tree of the City of San Diego and the Torrey Pine as the Official Native Tree of the City of San Diego.

**MAYOR GOLDING'S RECOMMENDATION:**

Adopt the following resolution:

(R-2001-725) ADOPTED AS RESOLUTION R-294078

Designating the Jacaranda as the official tree and the Torrey Pine as the official native tree of the City of San Diego in recognition of the value our community holds for their beauty and splendor, and the role they play in the quality of life of San Diegans.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A487-582.)

MOTION BY WEAR TO ADOPT. Second by Kehoe. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Blair-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-S404: Mission Bay Park Boundary Survey.

(See City Manager Report CMR-00-212. Mission Bay Community Area. District-2.)

(Continued from the meeting of 10/23/2000, Item 200, at the request of the City Manager for further review.)

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2001-68) INTRODUCED, TO BE ADOPTED ON TUESDAY,  
NOVEMBER 14, 2000.

Introduction of an Ordinance setting aside and dedicating certain parcels of City-owned land, in the City of San Diego, State of California, for a public park, and naming and including them as part of "Mission Bay Park."

FILE LOCATION: NONE

COUNCIL ACTION: (Tape location: B003-C451; D000-517.)

Motion by Wear to introduce the ordinance with direction to refer the policy issues to the NR&C Committee. Second by Mathis.

No vote taken.

MOTION BY WEAR TO INTRODUCE THE ORDINANCE WITH DIRECTION TO DEDICATE 10 PARCELS, TOTALING 26.84 ACRES AND DIRECT THE CITY MANAGER TO RETURN TO NR&C WITH A DISCUSSION OF THE POLICY ISSUES ASSOCIATED WITH THE MISSION BAY PARK SURVEY; AND THAT THE 25% WILL STILL BE BASED ON THE HISTORIC AMOUNT OF ACREAGE THAT EVERYONE UNDERSTOOD IT TO BE, WHICH WAS THE 1887 FIGURE; AND TO DIRECT THE CITY MANAGER NOT TO SUSPEND FINALIZING THE SURVEY BUT TO FILE THE SURVEY. Second by Mathis. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Blair-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-S405: McKinley Tentative Parcel Map.

Matter of the City Council setting aside its previous decision to deny an application for a Tentative Parcel Map, TPM-98-1183, for the subdivision of a

0.52 acre lot on Rockhurst Drive, west of Madra Avenue into 2 lots in the R-1-5 zone of the Navajo Community Plan area and to reconsider the matter in light of the court's ruling. This reconsideration will include the original TPM for two 50-foot wide lots previously denied. This hearing is in compliance with the Court's Peremptory Writ of Mandamus, dated August 24, 2000, in the case of McKinley v City of San Diego, et al, Case No. GIC 737246, which commands the City of San Diego and City Council of San Diego to set aside its denial of TPM-98-1183. TPM-98-1183 (McKinley Tentative Parcel Map).

(TPM-98-1183. Navajo Community Plan area. District-7.)

(Trailed as Unfinished Business from the meeting of 10/24/2000, Item 335, to request time to gather more information.)

**NOTE:** The public testimony portion of the hearing is closed.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution granting the map:

(R-2001- ) ADOPTED AS RESOLUTION R-294080

Adoption of a Resolution granting or denying the original TPM-98-1183, with appropriate findings to support Council action.

**OTHER RECOMMENDATIONS:**

The Court issued a Writ that commands the City of San Diego and City Council of San Diego to set aside its denial of Tentative Parcel Map No. 98-1183 and to reconsider the matter.

The Mayor & City Council on July 20, 1999, voted 9-0-0 to DENY the Tentative Parcel Map.

Planning Commission on June 3, 1999, voted 4-1-0 to DENY the Tentative Parcel Map; was opposition.

Ayes: Steele, Butler, Stryker, White

Nays: Anderson

Not present: Skorepa

The Navajo Community Planning Group on January 19, 1999, voted 5-4-4 to recommend DENIAL of the project.

## **CITY MANAGER SUPPORTING INFORMATION**

### **Background and Project Description**

The project is for Tentative Parcel Map (TPM) to subdivide a 0.52 acre property into two lots. The project site is located on the north side of Rockhurst Drive, approximately 200 feet west of Madra Avenue in the R-1-5000 zone of the Navajo Community Plan area. Many lots in the area are significantly larger than the minimum lot size of 5,000 square feet required by the underlying zone. The area is characterized by single family homes on hilly terrain.

On June 3, 1999, the Planning Commission voted 4-1-1 to deny the TPM. The Planning Commission felt that the two lots resulting from this subdivision would be out of character with other lots in the area. The applicant appealed the Planning Commission denial of the TPM to the City Council. On July 20, 1999, the Mayor and City Council voted 9-0-0 to also deny the TPM, agreeing with the Planning Commission that the TPM would result in a project that would be out of character with other lots in the area. The 100-foot frontage of the existing lot is about the same size as the frontages of all lots on Rockhurst Drive, and the immediate area. The subdivision will reduce the lot frontage from 100 feet to 50 feet. At 6,350 square-feet, proposed Parcel 2 would exceed the 5,000 square-foot minimum lot size requirement of the underlying zone, but would be significantly smaller in size than most lots in the immediate area.

The applicant subsequently filed suit in Court to challenge the City Council decision. As a result, the Court issued a Peremptory Writ of Mandamus, dated August 24, 2000 (McKinley v City of San Diego, et al, Case No. GIC 737246). The Writ commands the City of San Diego and City Council of San Diego to set aside its denial of Tentative Parcel map No. 98-1183 and to reconsider the matter in light of the Court's ruling.

### **Discussion of Issues**

The project site slopes upward from 525 feet above mean sea level (MSL) at the southeastern corner to 580 feet above MSL at the northwestern corner. The elevation differential is 55 feet. The existing side property lines are 206 and 243 feet; and the existing rear property line is 106 feet in width and the street frontage is 100 feet. The subdivision will carve out a rectangular 50 foot by 127 foot Parcel 2. Parcel 1 will also have a 50 foot frontage, and is proposed at 16,116 square feet. Parcel 2 is 6,350 square feet in area. The proposed lots are consistent with the size, width and length requirements of the R-1-5,000 zone.



The applicant has also identified building pad areas on the map to indicate that the lots can be developed with single-family homes that are consistent with development standards of the underlying zone, including building setbacks and building height. The property has also been reviewed and approved conceptually for compliance with the City's policies on drainage. City policy requires excess water to be directed away from adjacent properties into the City drainage system. Final drainage plans will be subject to the review and approval of the City Engineer. In addition, provision of street trees is a condition of approval.

Community Planning Group Review: The Navajo Community Planning Group discussion centered on two issues. (1) Many homeowners in the area feel that deed restrictions for properties on Rockhurst Drive prohibit the subdivision of existing lots. The project applicant disagrees. (2) The community also discussed that subdivision of this lot would adversely affect the existing character of the neighborhood. Lots on Rockhurst Drive and many nearby lots have 100 foot street frontages and are generally larger than the minimum lot size of 5,000 square-feet (0.11 acre). The proposal would create two lots with 50 foot frontages and 0.37 and 0.15 acres in size.

The Navajo Community Plan identifies this area for single-family residential development, and does not specifically address either of the two issues discussed by the community planning group. Planning & Development Review Department's role is to ensure the property meets the City's development regulations and guidelines. The City does not enforce property deed restrictions.

The project is consistent with all Municipal Code requirements relative to property subdivisions in the R-1-5,000 zone. Therefore, staff recommends approval of the project.

**ALTERNATIVES:**

1. DO NOT APPROVE the TPM to subdivide a 0.52 acre property into two lots.

**FISCAL IMPACT:**

None.

Loveland/Christiansen/jb

**LEGAL DESCRIPTION:**

The project site is located on the north side of Rockhurst Drive, between College Avenue and Madra Avenue in the Navajo Community Planning area and is more particularly described as lot

353 of Del Cerro Unit No. 5, according to map thereof No. 3538 filed in the office of the County Recorder of San Diego County, November 2, 1956.

**NOTE:** This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15315, Minor Land Division.

FILE LOCATION: LUP - McKinley Residence, Council Reconsideration

COUNCIL ACTION: (Tape location: D518-E149.)

Hearing began at 2:50 p.m. and halted at 3:07 p.m.

MOTION BY MCCARTY TO ADOPT, APPROVING THE TENTATIVE PARCEL MAP AS REVISED BY THE APPLICANTS, AND TO STATE THAT THIS ISSUE OF LOT SPLITS, TO PROTECT SINGLE FAMILY LOTS WITH SINGLE FAMILY HOMES ON THEM, SHOULD BE DISCUSSED BY THIS COUNCIL. INFORM THE RULES COMMITTEE CONSULTANT TO KEEP TRACK OF ALL REFERRALS TO COMMITTEE AND MAKE SURE THAT THE NEXT MAYOR AND RULES COMMITTEE CONSULTANT HAS THE REFERRALS AND WILL MAKE CERTAIN THOSE ITEMS ARE DOCKETED. Second by Stallings. Passed by the following vote: Mathis-not present, Wear-ineligible, Kehoe-yea, Stevens-yea, Blair-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-ineligible.

ITEM-S406: Old Town Trolley Tours.

(Continued from the meeting of 10/24/2000, Item 333, at the request of the State Park Department for further review).

Matter of application to reconstruct the existing Casa de Aguirre Adobe; relocate and rehabilitate the existing St. Joseph's Rectory/Convent building; demolish an existing garage and construct a carriage house and install sales/food carts throughout the project site, located at 2610 San Diego Avenue, in the Old Town Community Plan Area.

(PDP/RPO/CUP 96-7903. Old Town Community Plan Area. District-2.)

**NOTE:** Hearing open. No testimony taken on October 24, 2000.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution in subitem A, and adopt the resolution subitem B to approve the permit:

Subitem-A: (R-2001- ) ADOPTED AS RESOLUTION R-294082

Adoption of a Resolution certifying that the information contained in LDR File No. 96-7903 has been completed in compliance with the California Environmental Quality Act of 1970 and State CEQA Guidelines, and that said MND reflects the independent judgement of the City of San Diego as Lead Agency, stating for the record that the final MND has been reviewed and considered by the Council prior to approving the project, and adopting the Mitigation Monitoring and Reporting Program pursuant to California Public Resources Code Section 21081.

Subitem-B: (R-2001-566) ADOPTED AS RESOLUTION R-294083

Adoption of a Resolution approving Old Town San Diego Planned District/Resource Protection Ordinance/Conditional Use Permit No. 96-7903.

**OTHER RECOMMENDATIONS:**

Planning Commission voted 4-1 to approve; was opposition.

Ayes: Steele, Anderson, Brown, White

Nays: Stryker

Not present: Skorepa, Butler

The Old Town Community Planning Group has recommended approval of this project.

**SUPPORTING INFORMATION:**

Old Town Trolley Tours proposes a Old Town San Diego Development Permit/Resource Protection Ordinance Permit/Conditional Use Permit, to reconstruct the Casa de Aguirre adobe; relocate and rehabilitate the existing St. Joseph's Rectory/Convent building; demolish an existing garage and construct a carriage house, and install sales/food carts, ticket booth/stand at 2610 San Diego Avenue, in the Old Town Community.

On February 11, 1998, the Old Town Community Planning Committee voted 8-1-0, to recommend approval of the project.

At the September 14, 2000, Planning Commission hearing, the Commission voted 4-1-0, to adopt staff's recommendation to recommend that the City Council approve this project.

The City staff recommends certification of the Mitigated Negative Declaration LDR No. 96-7903; adoption of the Mitigation Monitoring and Reporting Program with all mitigation necessary to reduce, to a level of insignificance, all impacts of the project as identified in the MND; and approval of Old Town San Diego Planned District Permit/Resource Protection Ordinance/Conditional Use Permit No. 96-7903.

**FISCAL IMPACT:** None.

Loveland/Christiansen/jrj

**LEGAL DESCRIPTION:**

The 0.44-acre project site is more particularly described as being located at 2610 San Diego Avenue in the Old San Diego Planning Area (A portion of Lot 2, Block 452, Washington Square, Old San Diego, Miscellaneous Map No. 40).

FILE LOCATION: Subitems A,B: LUP - Old Town Trolley Tours.

COUNCIL ACTION: (Tape location: E150-F524.)

Hearing began at 3:08 p.m. and halted at 4:14 p.m.

Testimony in favor by Marie Lia, Ed Swift, Harold Dozier, Sal Giametta, Angelika Villagrana, Carmen Toigs, Carmine Ryan, Vernon Yoshioka, Ronald Telkes, and Deborah Blanke.

Testimony in opposition by Ed Navarro, Robert Wohl and Dianna Martinez.

MOTION BY WEAR TO ADOPT. Second by Blair. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Blair-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

PUBLIC NOTICE:

ITEM-S407: Point Loma Central Boiler Facility.

(R-2001-692)

Adopted as Resolution R-294062.

A Resolution approved by the City Council in Closed Session on Tuesday, October 24, 2000, by the following vote: Mathis-yea; Wear-not present; Kehoe-yea; Stevens-yea; Blair-yea; Stallings-yea; McCarty-yea; Vargas-yea; Mayor-yea.

Authorizing the City Manager to execute Change Order No. 30 with Nielsen Dillingham Builders, Inc. in an amount not to exceed \$1,300,000 to repair defective pipe under the contract for the Point Loma Wastewater Treatment Plant-Digester Facility Upgrade and Expansion Project;

Authorizing the City Auditor and Comptroller to transfer \$1,300,000 within Fund No. 41509, from CIP-45-940.0, Wet Weather Storage Facility, to CIP-46-170.0, Point Loma-Digester Facility Upgrade and Expansion;

Authorizing the expenditure of an amount not to exceed \$1,300,000 from Fund No. 41509, CIP-46-170.0, Point Loma-Digester Facility Upgrade and Expansion.

Aud. Cert. 2100477

**NOTE:** This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.

ITEM-250: Settlement of Property Damage Claim of David Lorimer Architect & Associates, et al.

(R-2001-606)

Adopted as Resolution R-293992.

A Resolution approved by the City Council in Closed Session on Tuesday, October 17, 2000, by the following vote: Mathis-yea; Wear-yea; Kehoe-yea; Stevens-yea; Blair-yea; Stallings-yea; McCarty-yea; Vargas-yea; Mayor-yea.

Authorizing the City Manager to pay the total sum of \$167,329.32 in the settlement of each and every claim against the City, its agents and employees, resulting from the property damage claim of David Lorimer Architect & Associates, et al;

Authorizing the City Auditor and Comptroller to issue eight checks, one made payable to Ross Lopez in the amount of \$40,211.77; one made payable to David Lorimer Architect & Associates in the amount of \$9,254.95; one made payable to Travelers Insurance subrogee of David Lorimer Architect & Associates in the amount of \$11,080; one made payable to James P. Starck Architects, Inc. in the amount of \$17,166.25; one made payable to St. Paul Insurance Recovery in the amount of \$13,865.20; one made payable to Mission Brewer Plaza LTD in the amount of \$2,886.20; one made payable to Ferrell Construction in the amount of \$984.01; and one made payable to Luth Turley, Inc. in the amount of \$71,880.94, as the complete and final settlement of the property damage which occurred on March 7, 2000.

Aud. Cert. 2100421.

**NOTE:** This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.

ITEM-251: Settlement of Property Damage Claim of Reinhold Metzger.

(R-2001-517)

Adopted as Resolution R-293990.

A Resolution approved by the City Council in Closed Session on Tuesday, October 17, 2000, by the following vote: Mathis-yea; Wear-yea; Kehoe-yea; Stevens-yea; Blair-yea; Stallings-yea; McCarty-yea; Vargas-yea; Mayor-yea.

Authorizing the City Manager to pay the total sum of \$67,975 in the settlement of each and every claim against the City, its agents and employees, resulting from the personal property damage to Reinhold Metzger;

Authorizing the City Auditor and Comptroller to issue one check in the total amount of \$67,975, made payable to Reinhold Metzger, as the complete and final settlement of the incident which occurred in December 1, 1996.

Aud. Cert. 2100361.

**NOTE:** This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.

ITEM-252: Settlement of Property Damage Claim of Chromagen, et al.

(R-2001-611)

Adopted as Resolution R-293991.

A Resolution approved by the City Council in Closed Session on Tuesday, October 17, 2000, by the following vote: Mathis-yea; Wear-yea; Kehoe-yea; Stevens-yea; Blair-yea; Stallings-yea; McCarty-yea; Vargas-yea; Mayor-yea.

Authorizing the City Manager to pay the total sum of \$563,655.47 in the settlement of each and every claim against the City, its agents and employees, resulting from the property damage claims of Chromagen, et al;

Authorizing the City Auditor and Comptroller to issue various checks in various amounts, up to but not exceeding \$563,655.47 made payable to the claimants on this file; this constitutes the complete and final settlement of the incident which occurred on May 30, 2000.

Aud. Cert. 2100420.

**NOTE:** This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.

ITEM-253: Notice of Completion and Acceptance of Subdivision Improvement Agreement.

Notice is hereby given that the City Manager of the City of San Diego intends to file a "Notice of Completion and Acceptance of Subdivision Improvement Agreement" indicating that the improvements included in the Subdivision Improvement Agreement have been satisfactorily completed for the following subdivisions:

<u>SUBDIVISION</u>	<u>AREA</u>
Mission Trails Industrial Park	Navajo Community

The certification shall be recorded 15 days after the date this notice appears on the Council Docket or shortly thereafter. If any person wishes to object to the filing of this notice, such person should communicate the objection on or before that date to the Director or Planning and Development Review or to the Subdivision Engineer, City Operations Building, 1222 First Avenue (MS 507), San Diego, CA 92101.

NON-DOCKET:

NONE.

ADJOURNMENT:

The meeting was adjourned by Mayor Golding at 5:32 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: H450).