

THE CITY OF SAN DIEGO, CALIFORNIA  
 MINUTES FOR REGULAR COUNCIL MEETING  
 OF  
 TUESDAY, JULY 31, 2001  
 AT 9:00 A.M.  
 IN THE COUNCIL CHAMBERS - 12TH FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Mayor Murphy at 10:10 a.m. The meeting was recessed by Mayor Murphy at 10:50 a.m. to convene the Housing Authority. The meeting was reconvened by Mayor Murphy at 11:10 a.m. with Council Member Inzunza not present. Mayor Murphy recessed the meeting at 11:11 a.m. to reconvene the Housing Authority. Mayor Murphy reconvened the meeting at 11:23 a.m. with Council Member Atkins and Council Member Inzunza not present. The meeting was recessed by Mayor Murphy at 12:02 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:06 p.m. with all Council Members present. The meeting was recessed by Mayor Murphy at 3:27 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:39 p.m. with all Council Members present. The meeting was recessed by Mayor Murphy at 5:25 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 5:34 p.m. with all Council Members present. The meeting was adjourned by Mayor Murphy at 6:26 p.m.

**ATTENDANCE DURING THE MEETING:**

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Wear-present
- (3) Council Member Atkins-present
- (4) Council Member Stevens-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present

(7) Council Member Madaffer-present

(8) Council Member Inzunza-present

Clerk-Abdelnour (er/pr)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Wear-present
- (3) Council Member Atkins-present
- (4) Council Member Stevens-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

ITEM-10: INVOCATION

Invocation was given by Pastor James Gordon of Horizon Christian Fellowship.

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Madaffer.

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Michael Riney commented regarding Pick, et al. v. City of San Diego. Mr. Riney stated that he represents over 200 homeowners along Ocean Front Walk in Mission Beach who have filed a class action lawsuit against the City. The lawsuit seeks to enforce the City's legal obligation to provide an adequate seawall between his clients properties and the Pacific ocean. The trial is set for August 3, 2001.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A127-168.)

PUBLIC COMMENT-2:

Richard Pearson commented regarding zone requirements. Mr. Pearson stated that City staff perpetrated a fraud last Tuesday during their presentation on the Warren Development Item. The outcome caused a building owner to lose significant amounts of money and damaged his reputation as a planner and an engineer.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A169-209.)

PUBLIC COMMENT-3: REFERRED TO THE CITY MANAGER AND CITY  
ATTORNEY

Diane Dixon commented regarding the library and the Cortez Hill Transitional Housing project. Ms. Dixon thanked Bosa Development who has donated \$210,000 toward the Cortez Hill Transitional Housing project and another developer who has donated in \$10,000. Ms. Dixon stated that City staff has confirmed that the remaining \$590,000 that is required would be forthcoming. Ms. Dixon expressed her concern regarding a conflict of interest with the fund raising committee for the Library. The president of that committee is a lobbyist

who represents any number of conflicts of interest in the downtown area where the ballpark is scheduled. The secretary, Mike Madigan, is the ballpark Czar and there might be a conflict of interest as well. Ms Dixon requested that the ethics committee look into that.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A215-258.)

**PUBLIC COMMENT-4:**

Kay Talley commented regarding the De Anza Cove Community. Ms. Talley stated that she has lived in the De Anza Community for 20 years and the people who live in the community are good people and good citizens. Most of the residents of that community are senior citizens and are very anxious because of the lack of affordable housing. Ms. Talley requested that the De Anza residents be provided with a lease of the same length as the adjacent property, Campland, while the City enhances its low-cost housing profile. She also requested that the community be relocated as a unit in the general area.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A270-317.)

**PUBLIC COMMENT-5:**

Leo Long presented the Third Way Plan, Final Speech regarding the De Anza Community and Mission Bay.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A321-365.)

**PUBLIC COMMENT-6:**

Glenn MacNary commented regarding the Pacific Rim and the City's leadership role. Mr. MacNary stated that opportunity was present many years ago, but was never taken advantage of. Mr. MacNary expressed that the Otay area should be made into a space port not just a sea port thus allowing San Diego to become a leader in the Pacific Rim.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A367-390.)

**PUBLIC COMMENT-7:**

Ron Boshun commented regarding the behavior of the Council. Mr. Boshun stated that the Council's conduct is under constant review by the public and that is the right of the people.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A391-439.)

**PUBLIC COMMENT-8: REFERRED TO THE CITY MANAGER**

Arlene Van de Wetering expressed her concerns with BID contracts, specifically, the Mission Hills Association. Ms. Van de Wetering requested that the City deny a contract to the current board and suspend further assessments until such time as the MHA members feel they can come together to form a legitimate board and make a commitment to their own organization.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A442-502.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Madaffer thanked fellow Council Members for the strong support and vision shown at the meeting last night that addressed the downtown library. Mr. Madaffer also wished Council Member Inzunza a happy birthday.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A519-556.)

COUNCIL COMMENT-2:

Council Member Peters wished Council Member Atkins a happy birthday.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A558-565.)

\* ITEM-330: Third Update to the Land Development Code - Homeless Facilities.

(City-wide.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 7/17/2001. (Council voted 8-0. Councilmember Inzunza not present):

(O-2001-109 Cor. Copy) ADOPTED AS ORDINANCE O-18965 (New Series)

Amending Chapter 14, Article 1, Division 4 of the San Diego Municipal Code, by amending Section 141.0412, relating to Homeless Facilities, to provide that emergency shelters which are accessory uses to religious institutions or religious organizations operating for 30 days or less in any 365-day period are exempt from this section; declaring that outside the Coastal Overlay Zone, this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

Within the Coastal Overlay Zone, this ordinance shall be in effect on the date it is effectively certified by the California Coastal Commission as a City of San Diego Local Coastal Program amendment.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A060-115.)

CONSENT MOTION BY WEAR TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-331: Pond 20 and City of Imperial Beach Redevelopment Plan Amendment No. 1 to the Palm Avenue/Commercial Redevelopment Project Area.

(Otay-Nestor Community Area. District-2.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 7/17/2001. (Council voted 8-0. Councilmember Inzunza not present.):

(O-2002-7) RETURNED TO THE CITY MANAGER

Transferring Redevelopment authority in approximately 68 acres of property in the City of San Diego, including a portion of Pond 20, to the Imperial Beach Redevelopment Agency;

Incorporating Amendment No. 1 to the Redevelopment Plan for the Palm Avenue/Commercial Redevelopment Project, including the maps and other reports that are incorporated into the Amended Plan by reference;

Approving the Amended Plan as the Redevelopment Plan for the Amendment Area;

Authorizing the City of Imperial Beach to undertake the redevelopment of San Diego's portions of the Amendment Area, as shown in Exhibit A, in all respects as if the Amendment Area was within the territory of the City of Imperial Beach;

Recognizing that the City Council of the City of Imperial Beach and the Imperial Beach Redevelopment Agency shall have all the rights, powers and privileges with respect to San Diego's portions of the Amendment Area, as if the Amendment Area were within the territory of the City of Imperial Beach;

Declaring that because the City of San Diego is an affected taxing entity as defined in Health and Safety Code Section 33353.2, the Imperial Beach Redevelopment Agency shall pay to the City of San Diego such payments from tax increments actually received from the Amendment Area as described in Health and Safety Code Section 33607.5;

Directing the City Clerk to send a certified copy of this Ordinance to the City Clerk of the City of Imperial Beach.

FILE LOCATION: NONE

COUNCIL ACTION: (Tape location: A034-047.)

MOTION BY WEAR TO RETURN TO THE CITY MANAGER AT HIS REQUEST TO DISCUSS THIS ITEM IN COMMITTEE AND WITH THE CITY OF IMPERIAL BEACH AND THE PORT. Second by Atkins. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-332: Office Space Lease Agreement - 707 Broadway.

(Centre City Community Area. District-2.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 7/16/2001. (Council voted 7-0. Councilmembers Peters and Wear not present.):

(O-2002-4) ADOPTED AS ORDINANCE O-18966 (New Series)

Authorizing the City Manager to execute a lease agreement with 707 Broadway, LLC, for a total leasehold area of approximately 15,009 square feet, at the base rent of \$19,750 per month;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$205,443.44 from the Library's Fund No. 100, Dept. 310, for rent and utility charges from the FY2002 Budget, and \$300,000 from the General Fund No. 100, Dept. 601, for moving costs and data infrastructure costs from the FY2002 Budget. These expenditures are contingent upon approval of the FY2002 Budget by the Mayor and City Council.

Aud. Cert. 2200022.

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

FILE LOCATION: LEAS - 707 Broadway, LLC

COUNCIL ACTION: (Tape location: A060-115.)

CONSENT MOTION BY WEAR TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-333: Three actions related to Campus Point Maintenance Assessment District.

(#47 University Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2001-1667) ADOPTED AS RESOLUTION R-295222

Resolution to levy and collect Fiscal Year 2002 assessments.

Subitem-B: (R-2001-1668) ADOPTED AS RESOLUTION R-295223

Approving the City Engineer's report.

Subitem-C: (R-2001-1669) ADOPTED AS RESOLUTION R-295224

Approving the Fiscal Year 2002 Budget for the Campus Point Maintenance Assessment District.

**CITY MANAGER SUPPORTING INFORMATION:**

This action establishes the Fiscal Year 2002 assessments for the Campus Point Maintenance Assessment District (District). The District was originally established in May 1981 to provide maintenance activities along Campus Point Drive such as: edging, irrigation, gutter sweeping, sidewalk sweeping and maintenance, collection and disposal of fallen branches and trees, revegetation and replacement of damaged plant material, tree and bush trimming, fertilization, weeding, pest control, and ongoing inspection and repairs. The District also provides maintenance of twenty-five (25) acres of open space. In FY 2001, the District property owners chose to reduce their frequency of service in order to contain the District costs within existing assessment amounts. This was successfully done without complaint, and resulted in appropriate generation of a large enough Ending Balance (a Reserve) to avoid assessment increases as costs increase with inflation. The following proposed FY 2002 budget is based on current maintenance costs:

<u>DESCRIPTION</u>	<u>Est. Year End</u>	
	<u>FY 2001</u>	<u>FY 2002</u>
<b>BEGINNING BALANCE</b>	\$ 619.00	\$ 9,310.00
 <b>REVENUE:</b>		
Assessments	\$ 24,812.00	\$ 24,769.00
Interest	0.00	300.00
City Contribution	<u>625.00</u>	<u>625.00</u>
<b>TOTAL REVENUE</b>	\$ 25,437.00	\$ 25,694.00
 <b>EXPENSE:</b>		
Personnel	\$ 3,281.00	\$ 3,392.00
Contractual	6,661.00	9,000.00
Incidental	3,503.00	3,656.00

Utilities	<u>3,301.00</u>	<u>7,635.00</u>
TOTAL EXPENSE	\$ 16,746.00	\$ 23,683.00
<b>ENDING BALANCE</b>	\$ 9,310.00	\$ 11,321.00

The proposed assessment for Fiscal Year 2002 is unchanged from FY 2001 at \$425 per Net Acre, or Equivalent Benefit Unit (EBU). There are 58.3 assessable Net Acres spread among 14 parcels that range in size from 2.0 to 25.0 Net Acres.

**FISCAL IMPACT:**

It is proposed that the City contribute a total of \$625 from the Environmental Growth Fund for the maintenance of 25 acres of open space. This represents the City's share of expenses incurred for maintenance of open space comparable to similar areas throughout the City. All other costs are assessed to the District.

Loveland/McLatchy/SY

FILE LOCATION: SUBITEMS A-C: STRT-M-392-02 (34)

COUNCIL ACTION: (Tape location: A060-115.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-334: Three actions related to Linda Vista Road Maintenance Assessment District.

(#12 Linda Vista Community Area. Districts-5 and 6.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2002-41) ADOPTED AS RESOLUTION R-295225

Resolution to levy and collect Fiscal Year 2002 assessments.

Subitem-B: (R-2002-42) ADOPTED AS RESOLUTION R-295226

Approving the City Engineer's report.

Subitem-C: (R-2002-43) ADOPTED AS RESOLUTION R-295227

Approving the Fiscal Year 2002 Budget for the Linda Vista Road Maintenance Assessment District.

**CITY MANAGER SUPPORTING INFORMATION:**

This action establishes the Fiscal Year 2002 assessments for Linda Vista Road Maintenance Assessment District (District). The District was established in April 1990 to provide maintenance for landscaping improvements on the raised medians and parkway areas along each side of Linda Vista Road within the public right-of-way. In a 1998 property owner ballot, additional improvements were included for the maintenance of street trees on the southern side of Genesee Avenue from Linda Vista Road to Highway 163. In FY 2002 the District will maintain 27,850 sq. ft. of landscaped medians, 134,031 sq. ft. of hardscape medians and right-of-way, 219,691 sq. ft. of landscaped right-of-ways and 14,319 linear ft. of gutters. The following FY 2002 proposed budget was approved by the Linda Vista Road Maintenance Assessment District Committee on April 18, 2001. The Committee will be addressing its revenue/expenditure imbalance during the coming year.

<b><u>DESCRIPTION</u></b>	<b><u>Est. Year End FY 2001</u></b>	<b><u>FY 2002</u></b>
<b>BEGINNING BALANCE</b>	\$ 30,560.00	\$ 22,318.00
<b>REVENUE:</b>		
Assessments	\$ 83,703.00	88,727.00
Interest	1,000.00	1,000.00
City Contribution	<u>3,246.00</u>	<u>3,342.00</u>
<b>TOTAL REVENUE</b>	\$ 87,949.00	\$ 93,069.00
<b>EXPENSE:</b>		
Personnel	\$ 14,958.00	\$ 16,960.00
Contractual	50,000.00	53,000.00
Incidental	14,233.00	17,425.00
Utilities	<u>17,000.00</u>	<u>19,250.00</u>

<b>TOTAL EXPENSE</b>	\$ 96,191.00	\$106,635.00
<b>ENDING BALANCE</b>	\$ 22,318.00	\$ 8,752.00

The proposed assessment for Fiscal Year 2002 is \$10.34 per Equivalent Benefit Unit (EBU) in Zone 1, Zone 2, and Zone 3. The District contains a total of 8,580.06 EBUs, with 6,721.57 EBUs in Zone 1, 1,094.35 EBUs in Zone 2, and 764.14 EBUs in Zone 3. The assessment is an increase of \$0.55 (a 5.6% increase) per EBU to each zone from the Fiscal Year 2001 assessment of \$9.79 per EBU. Within Zone 3, the medians are currently being cared for by the Navy in lieu of half of the Navy's assessment. If those medians are ever transferred to the District, the assessment to each parcel within Zone 3 EBUs will be increased proportionately.

**FISCAL IMPACT:**

It is proposed that the City contribute \$3,342 from the Gas Tax Fund for the maintenance of 27,850 sq. ft. of medians (0.12/sq. ft.). This represents the City's share of expenses incurred for maintenance of street medians comparable to similar areas throughout the City. All other costs are assessed to the District.

Loveland/McLatchy/SY

FILE LOCATION: SUBITEMS A-C: STRT-M-363-02 (34)

COUNCIL ACTION: (Tape location: A060-115.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea.

\*ITEM-335: Three actions related to North Park Maintenance Assessment District.

(#9 Greater North Park Community Area. District-3.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2002-44 Cor. Copy) ADOPTED AS RESOLUTION R-295228

Resolution to levy and collect Fiscal Year 2002 assessments.

Subitem-B: (R-2002-45) ADOPTED AS RESOLUTION R-295229

Approving the City Engineer's report.

Subitem-C: (R-2002-46) ADOPTED AS RESOLUTION R-295230

Approving the Fiscal Year 2002 Budget for the North Park Maintenance Assessment District.

**CITY MANAGER SUPPORTING INFORMATION:**

This action establishes the Fiscal Year 2002 assessment for North Park Maintenance Assessment District (District). The District was established in July of 1996 to provide maintenance of the landscaping improvements and street lights within the District boundaries. In 1998, a ballot of the property owners approved increasing their assessments in FY 1999 through FY 2003 to fund a capital improvement program including installation of 150 mid-block street lights, planting of 225 new streetside trees, a \$100 rebate to individual property owners for sidewalk repairs and a streetscape and art project along 30<sup>th</sup> at Switzer Canyon. The following FY 2002 proposed budget was approved by the North Park Lighting and Landscape Maintenance District Community Advisory Board on June 11, 2001.

<u>DESCRIPTION</u>	<u>Est. Year End</u>	
	<u>FY 2001</u>	<u>FY 2002</u>
<b>BEGINNING BALANCE</b>	\$ 278,760.00	\$ 323,480.00
<b>REVENUE:</b>		
Assessments	\$ 262,575.00	\$ 298,341.00
Interest	12,000.00	8,000.00
City Contribution	<u>4,344.00</u>	<u>4,344.00</u>
<b>TOTAL REVENUE</b>	\$ 278,919.00	\$ 310,685.00
<b>EXPENSE:</b>		
Personnel	\$ 25,365.00	\$ 26,812.00
Contractual	108,798.00	112,398.00
Incidental	33,936.00	41,178.00

Utilities	49,500.00	52,500.00
Capital Program	<u>16,600.00</u>	<u>256,802.00*</u>
<b>TOTAL EXPENSE</b>	\$ 234,199.00	\$489,690.00
<b>ENDING BALANCE</b>	\$323,480.00	\$144,475.00

\* \$256,802 is the full balance available for the Capital Program; somewhat less may actually be spent in FY 2002.

The proposed assessment for Fiscal Year 2002 is \$16.84 per Equivalent Benefit Unit (EBU). The District contains 17,714.53 EBUs. The assessment is an increase of \$1.92 (a 12.9% increase) per EBU from the FY 2001 assessment of \$14.92 per EBU. The Advisory Board exercised its option to use the accumulated CPI-U rate of 12.9% since the base year of 1998. The increase is necessary to cover anticipated FY 2002 operating costs.

**FISCAL IMPACT:**

It is proposed that the City contribute a total of \$4,344 (\$0.12/sq. ft.) from the Gas Tax Fund for the maintenance of 36,200 sq. ft. of medians. This represents the City's share of expenses incurred for maintenance of street medians comparable to similar areas throughout the City. All other costs are assessed to the District.

Loveland/McLatchy/SY

FILE LOCATION: SUBITEMS A-C: STRT-M-413-02 (34)

COUNCIL ACTION: (Tape location: A060-115.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-336: Three actions related to the Otay International Center Maintenance Assessment District.

(#27 Otay Mesa Community Area. District-8.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2002-81) ADOPTED AS RESOLUTION R-295231

Resolution to levy and collect Fiscal Year 2002 assessments.

Subitem-B: (R-2002-82) ADOPTED AS RESOLUTION R-295232

Approving the City Engineer's Report.

Subitem-C: (R-2002-83) ADOPTED AS RESOLUTION R-295233

Approving the Fiscal Year 2002 Budget for the Otay International Center Maintenance Assessment District.

**CITY MANAGER SUPPORTING INFORMATION:**

This action establishes the Fiscal Year 2002 assessments for Otay International Center Maintenance Assessment District (District). The District was established in July 1994 to provide maintenance for streetscapes and landscaped medians along major arterial streets and the corridors within the District. The improvements include parkway landscaping along Paseo Internacional (State Route 905) from the U.S. Customs Station to Airway Road, and 111,250 sq. ft. landscaped center medians along Siempre Viva Road from Harvest Road to Enrico Fermi Drive. The following FY 2002 proposed budget is based on current maintenance costs.

<b><u>DESCRIPTION</u></b>	<b>Est. Year End</b>	
	<b><u>FY 2001</u></b>	<b><u>FY 2002</u></b>
<b>BEGINNING BALANCE</b>	\$ 36,127.00	\$ 38,543.00
<b>REVENUE:</b>		
Assessments	\$ 309,501.00	\$ 309,010.00
Interest	2,000.00	2,000.00
City Contribution	<u>13,350.00</u>	<u>13,350.00</u>
<b>TOTAL REVENUE</b>	\$ 324,851.00	\$ 324,360.00

**EXPENSE:**

Personnel	\$ 49,128.00	\$ 50,879.00
Contractual	160,000.00	162,000.00
Incidental	42,921.00	43,780.00
Utilities	<u>70,386.00</u>	<u>80,650.00</u>
<b>TOTAL EXPENSE</b>	<b>\$ 322,435.00</b>	<b>\$337,309.00</b>

**ENDING BALANCE**

(Reserve)	\$ 38,543.00	\$ 25,594.00
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The proposed assessment for Fiscal Year 2002 is \$71.80 per Equivalent Benefit Unit (EBU). This is the same assessment as FY 2001. The District contains 4,303.74 EBUs.

**FISCAL IMPACT:**

It is proposed that the City contribute \$13,350 (\$0.12/sq. ft.) from the Gas Tax Fund for the maintenance of 111,250 feet of landscaped street medians. This represents the City's share of expenses incurred for maintenance of street medians comparable to similar areas throughout the City. All other costs are assessed to the District.

Loveland/McLatchy/SY

FILE LOCATION: SUBITEMS A-C: STRT-M-399-02 (34)

COUNCIL ACTION: (Tape location: A060-115.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-337: Three actions related to Penasquitos East Maintenance Assessment District.

(#33 Penasquitos East Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2002-32 Cor. Copy) ADOPTED AS RESOLUTION R-295234

Resolution to levy and collect Fiscal Year 2002 assessments.

Subitem-B: (R-2002-33) ADOPTED AS RESOLUTION R-295235

Approving the City Engineer's report.

Subitem-C: (R-2002-34) ADOPTED AS RESOLUTION R-295236

Approving the Fiscal Year 2002 Budget for the Penasquitos East Maintenance Assessment District.

**CITY MANAGER SUPPORTING INFORMATION:**

This action establishes the Fiscal Year 2002 assessments for the Penasquitos East Maintenance Assessment District (District). The District was established in 1983 to provide maintenance for landscaped medians, paved medians, landscaped right-of-ways, improved bus stops, community entrance signs, open space and a mini park. The District has 87 acres of open space and seven miles of medians which includes 176,692 sq. ft. of landscaped medians. The following FY 2002 proposed budget was approved by the Penasquitos East Maintenance Assessment District Committee on June 6, 2001:

<b><u>DESCRIPTION</u></b>	<b><u>Est. Year End</u></b>	
	<b><u>FY 2001</u></b>	<b><u>FY 2002</u></b>
<b>BEGINNING BALANCE</b>	\$193,552.00	\$184,665.00
<b>REVENUE:</b>		
Assessments	154,842.00	176,803.00
Interest	9,487.00	9,487.00
City Contributions	<u>32,728.00</u>	<u>28,379.00*</u>
<b>TOTAL REVENUE</b>	\$197,057.00	\$214,669.00
<b>EXPENSE:</b>		
Personnel	\$ 19,246.00	27,136.00

Contractual	111,000.00	215,000.00**
Incidental	44,973.00	47,022.00
Utilities	<u>30,725.00</u>	<u>33,250.00</u>
<b>TOTAL EXPENSE</b>	<b>\$ 205,944.00</b>	<b>\$ 322,408.00</b>
<b>ENDING BALANCE</b>	<b>\$ 184,665.00</b>	<b>\$ 76,926.00</b>

\* City contribution varies based on assets maintained and changes in the City's share for similar areas throughout the City.

\*\* In addition to normal maintenance, in FY 2002 the District plans to spend \$100,000 to replace deteriorated asphalt in some medians with stamped concrete.

The proposed assessment for Fiscal Year 2002 is \$12.70 per Equivalent Benefitting Unit (EBU). The District contains 13,919.91 EBUs. The assessment is an increase of \$1.56 (a 14% increase) per EBU from the Fiscal Year 2001 assessment of \$11.14 per EBU. The Committee exercised its option to use the accumulated CPI-U rate of 14% since the base year 1997. The increase is necessary to cover anticipated FY 2002 costs.

**FISCAL IMPACT:**

It is proposed that the City contribute a total of \$28,379. This consists of \$21,203 (\$0.12/sq. ft.) from the Gas Tax Fund for the maintenance of 176,692 sq. ft of landscaped medians and \$2,175 (\$25/acre) from the Environmental Growth Fund for 87 acres of open space. This represents the City's share of expenses incurred for the maintenance of street medians and open space comparable to similar areas throughout the City. Additionally, the Library Department will contribute \$5,001 for grounds maintenance at the Rancho Penasquitos Branch Library. All other costs are assessed to the District.

Loveland/McLatchy/SY

FILE LOCATION: SUBITEMS A-C: STRT-M-389-02 (34)

COUNCIL ACTION: (Tape location: A060-115.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-338: Three actions related to the Talmadge Maintenance Assessment District.

(#14 Mid-City/Talmadge Community Areas. Districts-3 and 7.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2002-72) ADOPTED AS RESOLUTION R-295237

Resolution to levy and collect Fiscal Year 2002 assessments.

Subitem-B: (R-2002-73) ADOPTED AS RESOLUTION R-295238

Approving the City Engineer's Report.

Subitem-C: (R-2002-74) ADOPTED AS RESOLUTION R-295239

Approving the Fiscal Year 2002 Budget for the Talmadge Maintenance Assessment District.

**CITY MANAGER SUPPORTING INFORMATION:**

This action establishes the Fiscal Year 2002 assessment for the Talmadge Maintenance Assessment District (District). The District is located in the Talmadge Community situated between Fairmount Avenue and Collwood Boulevard, north of Monroe Avenue. The purpose of the District is to fund installation and maintenance of ornamental lighting, decorative gates, landscaping, hardscape features (sidewalks, curbs, gutter, etc.), trees and other community-wide improvements. The following FY 2002 proposed budget was approved by the Talmadge Maintenance Assessment District Board on May 22, 2001. In FY 2002 the District is estimating to contract for installation and maintenance of Ornamental Lighting for \$117,000 in Zone 1 and Landscaping of the Traffic Circle on Adams Avenue for \$39,250 in Zone 2. From FY 2002 on, the budget for installation of Ornamental Lighting will be approximately \$58,500 per year until Zone 1 is brought up to the level of lighting currently in Zone 2. After installation of planned improvements in FY 2002, assessment revenues will be available for maintenance of improvements.

<u>DESCRIPTION</u>	<u>Est. Year End FY 2001</u>	<u>FY 2002</u>
<b>BEGINNING BALANCE</b>	\$ 0.00	\$101,796.00
<b>REVENUE:</b>		
Assessments	\$125,608.00	\$128,148.00
Interest	<u>4,000.00</u>	<u>6,000.00</u>
<b>TOTAL REVENUE</b>	\$129,608.00	\$ 134,148.00
<b>EXPENSE:</b>		
Personnel	\$ 0.00	\$ 5,427.00
Contractual	0.00	156,250.00
Incidental	5,867.00	11,934.00
Utilities	<u>21,945.00</u>	<u>22,785.00</u>
<b>TOTAL EXPENSE</b>	\$ 27,812.00	\$196,396.00
<b>ENDING BALANCE</b>	\$101,796.00	\$ 39,548.00

The proposed assessment for Fiscal Year 2002 is \$80.00 per Equivalent Benefit Unit (EBU) in Zone 1 and Zone 2. This is the same as Fiscal Year 2001. The District contains 1,601.86 EBUs: 998.7 EBUs in Zone 1, and 603.16 EBUs in Zone 2.

**FISCAL IMPACT:**

All costs are assessed to the District. There is no net fiscal impact.

Loveland/McLatchy/SY

FILE LOCATION: SUBITEMS A-C: STRT-M-419-02 (34)

COUNCIL ACTION: (Tape location: A060-115.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-339: Community Facilities District No. 1 (Miramar Ranch North) and Community Facilities District No. 2 (Santaluz) Annual Special Tax Levy.

(Black Mountain Ranch and Miramar Ranch North Community Areas. Districts-1 and 5.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

Subitem-A: (R-2002-121) ADOPTED AS RESOLUTION R-295240

Resolution of the Council of the City of San Diego acting as the Legislative Body of Community Facilities District No. 1 (Miramar Ranch North) authorizing the levy of special taxes for Fiscal Year 2001/2002.

Subitem-B: (R-2002-122) ADOPTED AS RESOLUTION R-295241

Resolution of the Council of the City of San Diego acting as the Legislative Body of Community Facilities District No. 2 (Santaluz) authorizing the levy of special taxes within each of Improvement Area No. 1 and Improvement Area No. 3 for Fiscal Year 2001/2002.

**CITY MANAGER SUPPORTING INFORMATION:**

In January 1991, the City Council adopted resolutions that established Community Facilities District No. 1 (Miramar Ranch North), and in March 2000, the City Council adopted resolutions that established Community Facilities District No. 2 (Santaluz). These actions authorized the issuance of limited obligation special tax bonds to finance the construction and acquisition of public infrastructure in or serving the districts, and authorized the annual levy of a special tax as the revenue source to pay yearly debt service on each district's outstanding bonds. This Council action would confirm the annual rates, apportionment, and total amount of special taxes to be levied and collected on taxable property within the boundaries of Community Facilities District No. 1 and Community Facilities District No. 2 for the 2001/2002 Fiscal Year. Each year, until final maturity of all bonds issued by the districts, the special tax levy will be presented to the City Council for approval, in accordance with the Mello-Roos Community Facilities Act of 1982.

Special taxes to be levied against taxable parcels of land within each district for the upcoming 2001/2002 year are reflected in the reports submitted herewith. The report for Community Facilities District No. 1 indicates a slight reduction in tax rates and total special tax levy over the previous fiscal year. For Community Facilities District No. 2, this will be the first special tax levy. These special taxes will be billed and collected by the County of San Diego in the same manner as ordinary ad valorem property taxes. Monies received in the form of special taxes will be used to pay the March 2002 and September 2002 debt service due on the outstanding bonds, maintain the appropriate balance in the reserve account, and pay costs incurred by the City and the districts in administering the special tax levy.

**FISCAL IMPACT:**

No fiscal impact to the City will occur as a result of this City Council action. The annual special tax levy includes an administrative charge to reimburse the City for costs and expenses incurred on behalf of each district.

Frazier/Vattimo/CW

<u>FILE LOCATION:</u>	SUBITEM A:	STRT-CF-1-02 (58)
	SUBITEM B:	STRT-CF-2-02 (58)

COUNCIL ACTION: (Tape location: A060-115.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-340: HUD 108 Loan for Logan Heights Library.

(See City Manager Report CMR-01-149. Logan Heights Community Area.  
District-8.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-138) ADOPTED AS RESOLUTION R-295242

Authorizing the City Manager or his designee to apply to HUD for a Section 108 Loan up to \$3,030,000 for the Logan Heights Library and to set forth the legal authority and certifications necessary for such an application;

Authorizing the City Manager to accept funds, to expend such funds contingent on receipt of an Auditor's Certificate to do so, to conduct all negotiations, and to execute all documents related to the processing of such a loan, if said loan is approved;

Authorizing the City Manager to appropriate proceeds of up to \$3,030,000 from this HUD 108 loan to CIP-35-101.0, Logan Heights Library, if said loan is funded;

Authorizing the City Manager to use District 8 CDBG annual allocations as the source of repayment of this HUD 108 loan;

Authorizing the City Manager to amend the Community Development Block Grant (CDBG) 2002 Action Plan to reflect the use of HUD 108 loan funds for the Logan Heights Library.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Tape location: A060-115.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea

- \* ITEM-341: Authorization to Transfer Funds and Amend or Enter into Agreements with the Point Loma High School Foundation and Alumni Association.

(District-2.)

**COUNCILMEMBER WEAR'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-167) ADOPTED AS RESOLUTION R-295243

Authorizing the City Auditor and Comptroller to reallocate \$55,000 from CIP-29-836.0 to Council District 2 CDBG Funds;

Authorizing the City Manager to amend or enter into agreements with the Point Loma High School Foundation and Alumni Association for \$25,000 to upgrade the school's band lockers to better deter theft, and the Responsible Hospitality Institute for \$30,000 for various industry-related outreach activities.

**SUPPORTING INFORMATION:**

Subsequent to the Fiscal Year 2002 City Council Budget deliberations, \$55,000 of District 2 FY 02 CDBG Public Improvement Account monies 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, \$55,000 in general fund monies is available for reallocation from CIP-29-836.0.

**FISCAL IMPACT:**

This action would allocate these funds in the following manner: \$25,000 to the Point Loma High School Foundation & Alumni Association to upgrade the school's band lockers to better deter theft; \$30,000 to the Responsible Hospitality Institute for various hospitality industry-related outreach activities.

Carter

Aud. Cert. 2200068.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A060-115.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-342: Owner Controlled Insurance Program Reallocation.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-119 Cor. Copy) ADOPTED AS RESOLUTION R-295244

Authorizing the City Manager to pay insurance premiums with insurance providers, to be identified by Marsh USA, Inc. to provide workers compensation, general liability, and builders risk under the owner-controlled insurance program for the Metropolitan Wastewater Department, in an amount not to exceed \$414,935 in Fiscal Year 2002;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$335,369 from Fund No. 41508, CIP-46-170.0, Point Loma - Digester Facility Upgrade & Expansion, as follows:

- \$ 19,957 to Fund No. 41508, CIP-46-179.0, Point Loma - Power Generation and Distribution Upgrade
- \$ 15,929 to Fund No. 41508, CIP-46-180.0, Point Loma - North Operations building
- \$ 2,009 to Fund No. 41508, CIP-45-939.0, Point Loma - Maintenance Building Expansion
- \$ 5,981 to Fund No. 41508, CIP-46-182.0, Point Loma - Chemical Feed System
- \$ 22,007 to Fund No. 41508, CIP-46-055.0, Point Loma - Sludge Pump Station

- \$ 19,293 to Fund No. 41508, CIP-46-175.0, Point Loma - Headworks, Odor Control & Grit Processing
- \$ 27,975 to Fund No. 41508, CIP-46-110.0, Point Loma - Scum Removal
- \$ 11,746 to Fund No. 41509, CIP-40-911.3, South Bay Sewer & Pump Station
- \$199,994 to Fund No. 41509, CIP-42-910.6, South Bay Water Reclamation Plant
- \$ 10,478 to Fund No. 41506, CIP-46-168.0, Telemetry Control System.

**CITY MANAGER SUPPORTING INFORMATION:**

On June 21, 1994 the City Council adopted Resolution R-284112 approving the City to enter into a contract with Marsh USA, Inc., (Marsh) for administrative services for an Owner Controlled Insurance Program (OCIP). The types of insurance covered by OCIP include Worker's Compensation, General Liability (GL), Builder's Risk (BR), and Excess Liability. The OCIP project will be completed on December 31, 2001.

The premiums for the insurance coverages are based on the amount of construction occurring and reported payroll from the contractors. Premiums were calculated for FY 2002 using the latest construction and payroll estimates. Since the initial estimate for premiums, the completion dates for some projects were extended and the estimated payroll was revised for another project. Therefore, this request is to reallocate premiums to reflect the current construction activity. This is a no cost action.

OCIP total insurance costs are about 60% of conventional insurance costs. Argonaut is one of the dominant players in the California OCIP market. Their normal OCIP Worker's Compensation loss rate for California public projects since 1995 is \$9.08 per \$100 of payroll. The MWWWD OCIP loss rate since 1994 is \$5.62 per \$100 of payroll.

Another measure is the number of claims per \$1 million dollars of payroll. The California public project rate for OCIPs is \$6.29 per \$1,000,000, and the MWWWD rate is \$3.09 per \$1,000,000, which is less than half of other OCIPs. The program has been extremely successful since its inception in 1994, and we believe the savings exceed \$2,000,000 per year.

**FISCAL IMPACT:**

Funds for this purpose are available in the MWWWD FY 2002 Program Budget, contingent upon City Council approval and adoption of the Final FY 2002 budget. Costs not to exceed \$414,935 were previously authorized by Resolution R-2933550, dated July 24, 2000.

Loveland/Tulloch/WJH

Aud. Cert. 2200011.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A060-115.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-343: Authorization to Apply for, Accept and Expend Federal Highway Administration - Community-Based Transportation Planning Funds.

(Encanto Community Area. District-4.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-147) ADOPTED AS RESOLUTION R-295245

Authorizing the application, acceptance, and execution of a Federal Highway Administration - Community-Based Transportation Planning Grant from the State of California Department of Transportation.

**CITY MANAGER SUPPORTING INFORMATION:**

Staff has prepared a Community-Based Transportation Planning Grant application seeking financial support for a sustainable development master plan project for the Encanto Neighborhoods in the Southeastern San Diego community area. Due to time constraints associated with the application process, staff was unable to request Council authorization prior to the August of 2000 submittal to the State of California Department of Transportation. On May 9, 2001, the Planning Department received a letter from the State of California Department of Transportation notifying the City that the grant application submitted in August of 2000 had been approved for a total allocation of \$197,500. Authorization is now being requested to

submit the grant application, accept and execute the agreement between the City of San Diego and the State of California Department of Transportation as well as expend grant funds approved as of May 9, 2001. The project submitted for the grant request is as follows:

Sustainable Development Master Plan for Encanto Neighborhoods - This project involves development of a master plan which will set policy recommendations about land uses with the main idea of fostering energy, economic and environmental sustainability throughout the Encanto Neighborhoods. In addition, the master plan would provide guidance in terms of what can be done to implement the concept of sustainable development with respect to transportation, community centers/nodes, housing, and environmental issues. A market research will be initially conducted to evaluate current land uses, demographics, and people's needs. A market strategy that is based on market research results will then establish policies and programs necessary to sell the concept of sustainable development within the Encanto Neighborhoods. Public participation efforts will be implemented throughout the entire process via creation of a Citizens' Advisory Committee comprised of business owners, property owners, non-profit groups, residents, and other interested community groups to ensure community wide representation. Monthly meetings will be scheduled to discuss progress, receive community input and obtain updates from staff regarding particular tasks accomplished.

**FISCAL IMPACT:**

Seeking a total of \$197,500 in grant funds.

Ewell/Goldberg/PC

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A060-115.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea.

ITEM-344: Appointments and Reappointments to the Park and Recreation Board.

(See memorandum from Mayor Murphy dated July 17, 2001 with resumes attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-148) ADOPTED AS RESOLUTION R-295251

Council confirmation of the following appointments and reappointments by the Mayor to serve as members of the Park and Recreation Board, for terms ending as indicated.

<u>NOMINEE</u>	<u>FOR TERMS ENDING</u>
Darlene Gould Davies (Reappointment)	March 1, 2003
Robert L. Robinson (Reappointment)	March 1, 2003
Olivia Puentes-Reynolds (Replacing Seth A. Layton whose term expired 3/1/2001)	March 1, 2003
Daniel T. Mazzella (Replacing Peggy Lacy whose term expired 3/1/2000)	March 1, 2002

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: D006-051.)

MOTION BY STEVENS TO APPROVE THE APPOINTMENTS AND REAPPOINTMENTS. Second by Atkins. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea.

ITEM-345: Amendments to the City's Elections Code, Chapter 2, Article 7 of the San Diego Municipal Code.

(See Charles G. Abdelnour's 6/14/2001 memo; City Attorney's 6/13/2001 report; and City Clerk Report CCR-01-02.)

(Continued from the meeting of July 16, 2001, Item 50, at the request of Council, for further review.)

**TODAY'S ACTION IS:**

Introduce the following ordinance:

(O-2002-2) INTRODUCED, AS AMENDED, TO BE ADOPTED ON  
SEPTEMBER 10, 2001

Introduction of an Ordinance, amending Chapter II, Article 7, of the San Diego Municipal Code, relating to Elections, by amending Division 2, Section 27.0213 - Nominations; by amending Division 6, Sections 27.0608, 27.0620 and 27.0621 - Ballots for Candidates; by amending Division 7, Sections 27.0701 and 27.0709 - General Provisions for Filling Vacancies in Elective Offices; by amending Division 8, Sections 27.0801, 27.0802, 27.0803, 27.0804, 27.0805, 27.0806, and 27.0809 - Procedure for Filling Vacancies in Elective Offices by Appointment; by amending Division 9, Sections 27.0902 and 27.0907- Procedure for Filling Vacancies in Elective Offices by Special Election; and by repealing Division 23, Sections 27.2301, 27.2302, and 27.2303.

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

On 6/20/2001, RULES voted 5 to 0 to accept the report. (Councilmembers Wear, Atkins, Stevens, and Madaffer and Mayor Murphy voted yea.)

**SUPPORTING INFORMATION:**

At the RULES Committee meeting on May 23, 2001, the Committee approved the staff recommendations contained in City Clerk's Report CCR-01-02 except to restore the word "business" to Section 27.0701. The Committee also directed the City Attorney to prepare a report on the legislative history of the City's process for filling vacancies in the offices of the

Mayor, City Attorney and City Council. At the RULES Committee meeting on June 20, 2001, the City Attorney's Report was accepted and the proposed amendments were approved.

Abdelnour

FILE LOCATION: NONE

COUNCIL ACTION: (Tape location: B423-C030.)

MOTION BY MADAFFER TO INTRODUCE THE ORDINANCE WITH ONE AMENDMENT TO RESTORE SECTION 27.0804(d) A PETITION WITH THE SIGNATURES OF 50 REGISTERED VOTERS IS REQUIRED BY THE NOMINATION PROCEDURES OF THIS ARTICLE. Second by Peters. Passed by the following vote: Peters-yea, Wear-yea, Atkins-not present, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea.

ITEM-346: Slope Easement Abandonment.

(Pacific Beach Community Area. District-6.)

(Continued from the meeting of June 26, 2001, Item 200, at the request of Councilmember Frye to give the Community Planning Groups an opportunity to meet and discuss this issue.)

(Continued from the meeting of May 22, 2001, Item 104, at the request of Council, to allow the incoming Councilmember from District 6 to review and vote on the item.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2001-1418) ADOPTED AS RESOLUTION R-295246

Vacating the slope easement located in Lots 53 through 58, Block 7 of Floral Terrace, Map 1635.

**CITY MANAGER SUPPORTING INFORMATION:**

City Council action is requested to vacate a slope easement in Lots 53 through 58 in Block 7 of Floral Terrace Subdivision Map 1635, which is located in the Pacific Beach Community area within Council District 6. The easement was granted to the City in 1961 for earth excavation and embankment for road purposes. The street has been constructed and the slope easement is no longer necessary. The easement to be abandoned was acquired at no cost to the City. City staff recommends approval of the easement abandonment.

Loveland/Haase/AA

FILE LOCATION: DEED F-8059

COUNCIL ACTION: (Tape location: C032-073.)

MOTION BY FRYE TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Wear-yea, Atkins-not present, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-not present, Mayor Murphy-yea.

ITEM-347: Vacation of a Portion of 29th Street.

(Greater North Park Community Area. District-3.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2001-1757) ADOPTED AS RESOLUTION R-295247

Vacating a portion of 29th Street, reserving out a general utility and access easement, as described in the legal description marked Exhibit "A," and shown on Drawing No. 19382-B marked Exhibit "B."

**CITY MANAGER SUPPORTING INFORMATION:**

City Council action is requested to vacate an unused portion of 29th Street in the Greater North Park Planning area within Council District 3. The applicant is requesting the street vacation for

the purpose of building a garage in a portion of the vacated street. The street has been previously vacated on either side of the proposed vacation so there is currently no public access. The Greater North Park Community Planning Committee recommended the street vacation by a vote of 11-0-1. The City will reserve a general utility and access easement over a portion of the area to be vacated. The street to be vacated was acquired at no cost to the City. City staff recommends approval of the street vacation.

**FINDINGS:** Staff review has indicated that the right-of-way to be vacated may be summarily vacated and that the four required findings for vacation can be made. These findings are:

- a) That there is no prospective use for the right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated.
- b) That the public will benefit from the action through improved utilization of land made possible by the street vacation - the land value will lead to higher property tax revenues.
- c) That the vacation is not inconsistent with the General Plan, an approved Community Plan, or the Local Coastal Program.
- d) That the facility for which the right-of-way as originally acquired will not be detrimentally affected by the street vacation - this street has limited use and will not be extended.

**FISCAL IMPACT:**

None. All costs have been paid by the applicant.

Loveland/Haase/AA

**NOTE:** This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15061(b)(3).

**FILE LOCATION:** STRT-J-2926 (39)

**COUNCIL ACTION:** (Tape location: B220-235.)

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

MOTION BY ATKINS TO ADOPT. Second by Wear. Passed by the following vote:  
Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer,  
Inzunza-not present, Mayor Murphy-yea.

ITEM-348: South San Diego Pipeline No. 2 - Reach A & B Project.

(Continued from the meeting of 6/19/2001, Item 330, at the request of the City  
Manager, for further review.)

(See City Manager Report CMR-01-112. South San Diego Community Area.  
District-8.)

**Note:** Hearing open. No testimony taken on 6/19/2001.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2001-1506) ADOPTED AS RESOLUTION R-295248

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 permanent easements and rights-  
of-way for the South San Diego Pipeline No. 2 - Reach A and B; that the property  
is located in the South San Diego/Otay Mesa area of the City of Chula Vista; and  
that the public interest, convenience and necessity demand the acquisition of  
permanent easements and rights-of-way over the property.

Declaring that the acquisition of permanent easements and rights-of-way is  
necessary for completion of the South San Diego Pipeline No. 2 - Reach A and B  
project;

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

Directing the City Attorney to commence an eminent domain action in the Superior Court of the State of California, to condemn, acquire and obtain prejudgement possession of the property for use of the City.

**NOTE:** 6 votes required.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: C077-128.)

The hearing began at 11:42 a.m. and halted at 11:52 a.m.

MOTION BY WEAR TO ADOPT. Second by Stevens. Passed by the following vote: Peters-yea, Wear-yea, Atkins-not present, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-not present, Mayor Murphy-yea.

ITEM-349: Five actions related to Storm Water Pollution and Sedimentation Control.

(See City Manager Report CMR-01-123.)

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinances in Subitems A, B, C and D, and hold the first public hearing of the ordinance in Subitem E:

Subitem-A: (O-2002-3) INTRODUCED, TO BE ADOPTED ON MONDAY,  
SEPTEMBER 10, 2001

Introduction of an Ordinance amending Chapter IV, Article 3, Division 3, of the San Diego Municipal Code by amending Sections 43.0301, 43.0302, 43.0304, and 43.0305, by amending and renumbering Sections 43.0306, 43.0307, 43.0308, 43.0309, 43.0310, 43.0311 and 43.0312, and by repealing Section 43.0314, relating to Storm Water Management and Discharge Control.

Subitem-B: (O-2002-9) INTRODUCED, TO BE ADOPTED ON MONDAY,  
SEPTEMBER 10, 2001

Introduction of an Ordinance amending Chapter 12, Article 9, Division 6, of the San Diego Municipal Code by amending Section 129.0630; and amending Chapter 14, Article 2, Division 1, by amending Section 142.0146, relating to Grading Regulations.

Subitem-C: (O-2002-6) INTRODUCED, TO BE ADOPTED ON MONDAY,  
SEPTEMBER 10, 2001

Introduction of an Ordinance amending Chapter 14, Article 2, Division 2, of the San Diego Municipal Code by amending Sections 142.0201, 142.0210 and 142.0220, all relating to Drainage Regulations.

Subitem-D: (O-2002-12) INTRODUCED, TO BE ADOPTED ON MONDAY,  
SEPTEMBER 10, 2001

Introduction of an Ordinance amending the Fee Schedule for Subdivision Approvals and Grading and Public Right-of-Way Permits.

Subitem-E: (O-2002-13) FIRST PUBLIC HEARING HELD, SECOND HEARING  
TO BE HELD ON MONDAY, AUGUST 6, 2001

First public hearing of an Ordinance amending the Annual Appropriation Ordinance adopting the annual budget for the Fiscal Year 2001-2002 and appropriating the necessary money to operate the City of San Diego for said Fiscal Year by increasing the Development Services Department's budget by thirteen positions.

**NOTE:** Today's action for Subitem E is the first public hearing. The second public hearing and introduction and adoption of the ordinance will be on Monday, August 6, 2001 at 2:00 p.m.

**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**

On 6/13/2001, LU&H voted 5-0 to approve the City Manager's recommendation. (Councilmembers Peters, Wear, Atkins, Stevens and Maienschein voted yea.)

**CITY MANAGER SUPPORTING INFORMATION:**

Approval of the requested items is required to implement Order 2001-01 which was adopted on February 21, 2001 by the California Regional Water Quality Board. This order, referred to as the Municipal Storm Water Permit, regulates sediments and pollutants in storm water runoff throughout San Diego County. It requires that jurisdictions amend land use policies, adopt new regulations, create new construction standards, and develop cooperative plans with other jurisdictions for pollution and runoff control. Most of these must be approved and implemented by February 21, 2002.

On May 9, 2001 revisions to regulations for storm water runoff were reviewed by the Code Monitoring Team and they were also reviewed by the Mayor's Clean Water Task Force on May 10, 2001. The Planning Commission unanimously recommended approval of this proposal on May 12, 2001. The Planning Commission expressed concern about maintenance costs and the impact on affordable housing.

On June 13, 2001 the Land Use and Housing Committee unanimously recommended approval (Vote: 5-0), including revisions to the fee schedule and amendment to the Appropriation Ordinance to add positions needed for plan review and field inspection (see City Manager Report CMR-01-123, page 6, for details). By changing certain fixed fee accounts to deposit accounts, the additional positions will be supported by revenues directly related to the costs. Also included is an addition to Section 142.0020(b) of the Storm Water Runoff Control and Drainage Regulations. The addition is to maintain consistency within this section of the Code and will read as follows: (b) All development shall be conducted to prevent erosion and stop sediment and pollutants from leaving the property to the maximum extent practicable.

In conclusion, staff recommends approval of the ordinance amending the Drainage, Grading and Storm Water Management and Discharge Control Regulations; approve the revision to the fee schedule; and amend the Appropriation Ordinance to add positions to the Development Services Department to implement the California Regional Water Quality Control Board adopted Order No. 2001-01 that regulates sediments and pollution in storm water runoff.

Loveland/Christiansen/KB/CC

FILE LOCATION: NONE

COUNCIL ACTION: (Tape location: C130-363.)

The hearing began at 11:53 p.m. and halted at 12:02 p.m.

MOTION BY PETERS TO INTRODUCE THE ORDINANCES IN SUBITEMS A, B, C, AND D, AND TO APPROVE THE FIRST PUBLIC HEARING OF THE ORDINANCE IN SUBITEM E. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-not present, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-not present, Mayor Murphy-yea.

ITEM-350: Headquarters Point Research Park.

(Continued from the meetings of December 12, 2000, Item 331, March 20, 2001, Item 330, June 12, 2001, Item 330, and June 19, 2001, Item S518; last continued at the request of the City Manager, for further review.)

Matter of approving, conditionally approving, modifying or denying an Open Space Easement Vacation (OS)/Rezone (RZ)/Vesting Tentative Map (VTM)/Planned Industrial Development (PID)/Coastal Development Permit (CDP) to vacate an open space easement, rezone a 10.3 acre site from RS-1-1 (R1-40000) to IL-2-1 (M1-B) zone and to subdivide the site into two lots and develop a planned industrial development located immediately east of Interstate 805 (I-805) on Headquarters Point between Wateridge Circle and Lusk Boulevard in the Mira Mesa Community Plan area.

(99-0036 OS Vacation/RZ/VTM/PID/CDP. Mira Mesa Community Plan area. District-5.)

**NOTE:** Hearing open. No testimony taken on 12/12/2000.  
Hearing open. No testimony taken on 3/20/2001.  
Hearing open. No testimony taken on 6/12/2001.  
Hearing open. No testimony taken on 6/19/2001.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the resolutions in subitems B and E; adopt the resolution in subitem C to grant the map; adopt the resolution in subitem D to grant the permit; and introduce the ordinance in subitem A:

Subitem-A: (O-2001-103) INTRODUCED, TO BE ADOPTED ON MONDAY,  
SEPTEMBER 10, 2001

Introduction of an Ordinance changing 10.3 acres, located between Wateridge Circle and Lusk Boulevard, in the Mira Mesa Community Plan area, from the RS-1-1 (R1-40000) zone to the IL-2-1 (M1-B) zone, as defined by San Diego Municipal Code Section 131.0603 (101.0435.2); and repealing Ordinance No. O-8485 (New Series), adopted June 22, 1961.

Subitem-B: (R-2001-925 Cor. Copy) ADOPTED AS RESOLUTION R-295252

Adoption of a Resolution certifying that the information contained in Environmental Impact Report LDR No. 99-0036 Supplement to EIR No. 96-0265, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations section 15000 et seq.), and that said EIR reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the land use actions for this project;

that pursuant to California Public Resources Code section 21081 and California Code of Regulations section 15091, the City Council adopts the Findings made with respect to the project;

that pursuant to California Code of Regulations section 15093, the City Council adopts the Statement of Overriding Considerations;

and that pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment.

Subitem-C: (R-2002- ) GRANTED MAP,  
ADOPTED AS RESOLUTION R-295253

Adoption of a Resolution granting or denying Vesting Tentative Map No. 99-0036, with appropriate findings to support Council action.

Subitem-D: (R-2002- ) GRANTED PERMIT,  
ADOPTED AS RESOLUTION R-295254

Adoption of a Resolution granting or denying Planned Industrial Development/Coastal Development Permit No. 99-0036, with appropriate findings to support Council action.

Subitem-E: (R-2001-1195) ADOPTED AS RESOLUTION R-295255

Adoption of a Resolution vacating the open space easement located between Wateridge Circle and Lusk Boulevard in the M1-B (IL-2-1) zone of the Mira Mesa Community Plan, a portion of Lot 10 of Corporate Research Park II, Map No. 13605, filed July 27, 1998 (APN 340-090-55), in connection with the Headquarters Point Research Park development.

**OTHER RECOMMENDATIONS:**

The Planning Commission on December 7, 2001, voted 7 - 0 to recommend to the City Council that they deny this project based on the fact that the fundamental issue of the Open Space Vacation needs to be resolved before the project can be evaluated and the decision should be reviewed by the Planning Commission and City Council concurrently; and the additional information requested of staff was not provided to the Commission prior to the hearing.

Ayes: Steele, Anderson, Brown, Butler, Skorepa, Stryker, Garcia

The Mira Mesa Community Planning Group on October 18, 1999, voted 11-0-1, with conditions, to recommend approval of the project.

**CITY MANAGER SUPPORTING INFORMATION:**

**BACKGROUND**

The Headquarters Point Project has its origins in a settlement agreement between the City and the San Dieguito Partnership (SDP) which resolved three complicated land use lawsuits.

For approximately fifty years, SDP owned almost all of the property located in an area now identified as Subarea II of the North City Future Urbanizing Area. Over the years, SDP made numerous unsuccessful attempts to acquire entitlements to allow development of their property. SDP's development efforts culminated in 1996 when they submitted three applications to develop roughly 150 acres of their holdings in the region. Although two of the three applications were approved by the City Council and the third was denied, two ballot measures which proposed to phase shift the SDP property were defeated by the voters, thus leaving SDP with limited development rights.

SDP filed suit against the City, alleging the City had inversely condemned their property. SDP sought over \$50 million in damages. After extensive settlement discussions, on November 16, 1998, the City Council approved a settlement agreement resolving all of SDP's lawsuits. The primary aim of the City in the settlement agreement was to preserve as open space the vast majority of the SDP property located in Subarea II. To achieve this end, Southern California Edison agreed to buy about 50 acres of the SDP property. In addition, the City purchased a 47-acre parcel, commonly referred to as the "Ranch." In the settlement agreement, the City also agreed to consider a small residential development of SDP's 27-acre property known as the "Villas."

As consideration for the SDP's Ranch property, and SDP's agreement to forgive almost \$1.5 million in debt owed by the City to SDP from a prior transaction, the City agreed to transfer to SDP a parcel in University City, referred to now as the Nobel Research Park. In November 1998, the electorate approved Proposition N which ratified the proposed exchange of properties. The City also agreed to transfer fee simple title to roughly ten acres of property in Sorrento Mesa, now referred to as the Headquarters Point Research Park. The settlement agreement approved by the City Council contemplated SDP would apply to develop the property in a manner consistent with the pending application.

When the settlement agreement was being implemented in 1999, the parties discovered the presence of an unrecorded lease between the City and the Santa Fe Pacific Pipelines, LP, which allows an underground pipeline on a portion of the Headquarters Point Parcel. To expedite dismissal of SDP's lawsuits and to prevent any claim that the City failed to provide notice of the underground lease, on December 7, 1999, the City Council approved an amendment to the settlement agreement. As part of the amendment, SDP transferred the Headquarters Point parcel to the City and the City transferred to SDP a two-acre parcel at the Nobel Research Park which SDP was holding in trust for the City. SDP also agreed to continue to process at its expense the development application for the Headquarters Point Research Park. As part of the settlement discussions, Council directed staff to process a development application to allow Council to consider a proposal which would increase the value of the property to partially offset the financial commitments of the SDP settlement agreement. The 10.3 acre site is located west of

Wateridge Circle, east of Lusk Boulevard in the R1-40000 zone (IL-2-1 proposed (M1-B)) within Hillside Review Overlay Zone and the Coastal Development Overlay Zone in the Mira Mesa Community Plan. The surrounding land uses near the Headquarters Point Research Park property are the industrial Corporate Research Park to the southeast; Vista Sorrento Parkway to the southwest; Lusk Boulevard to the northwest; and commercial/industrial development to the northeast. The Mira Mesa Community Plan designates an industrial park for this location. The site was designated for industrial development as part of the larger project, the Corporate Research Park. With the approval of the Corporate Research Park, this area was identified from industrial uses to open space as biological mitigation for direct impacts resulting from the Corporate Research Park.

### DISCUSSION

Approval of the Headquarters Point Research Park would allow the subdivision and development of 10.3 acres with a public road and two lots for future industrial uses; landscaping; off-street surface parking; improvements in the public right-of-way; and a MHPA boundary adjustment. All of the property in the Headquarters Point Research Park is owned by the City of San Diego. The majority of this site is not within the Multiple Habitat Preservation Area. When the MHPA boundaries were established in this area, this property was excluded due to its low value as habitat and because the site is not physically connected to other habitat which would contribute to a wildlife corridor. The MHPA boundary adjustment will result in a greater area being included into the MHPA preserve. The adjustment increases the MHPA by including areas currently not within the MHPA and is offset by decreasing areas which are included in the MHPA. The total of the MHPA land area is increased as a result of this adjustment. City staff has reviewed and is in support of the proposed adjustment. The Federal and State of California agencies reviewed the EIR and did not provide any written comments addressing the proposed project. Development of the individual lots would be facilitated by the proposed Headquarters Point Research Park Planned Industrial Development Design Guidelines and conditions of approval found in Attachments 6 and 7. Approval of site specific building plans, landscaping and site development would be controlled by these guidelines and would be used during the review of specific building proposals. Subject to the regulations in effect prior to the Land Development Code, January 2000, the Headquarters Point Research Park project is located within the Hillside Review Overlay Zone. The regulations of the Hillside Review Overlay Zone (HR), Section 101.0454D, Development Regulations require an HR permit before any development is allowed, with three exclusions. An HR permit is not required if a Planned Development Permit is obtained in accordance with the procedure set forth in Chapter X, Article 1, Division 9. The proposed project includes a Planned Industrial Development (PID) Permit and is consistent with the development regulations of the PID ordinance. The development regulations of the PID, Section 101.0920D Design Criteria, address the goals of the Hillside Review regulations in item number 2, "The plan shall provide for adequate permanent

open space areas, circulation, off-street parking, and pertinent pedestrian amenities. Building structures and facilities and accessory uses within the parcel shall be well integrated, and oriented and related to the topographic and natural features of the site.” Therefore, the proposed project does not require a Hillside Review Permit, yet is consistent with the purpose and intent of those regulations.

The 10.3 acres of Headquarters Point Research Park was created by a grant deed from the Corporate Research Park, Lot 10, Map No. 13604 which totaled 46.9 acres. Of the original 46.9 acre property, the remaining 36.6 acres would be preserved in open space and retain the current R1-40000 zoning. The proposed project is located in the least sensitive portion of the site, is sited in the most level areas available, preserves the greatest amount of the open space possible, and protects the steepest slopes and most sensitive vegetation located on the site. The proposed development would be located adjacent to existing industrial developments on Lusk Boulevard and Wateridge Circle. These features, and the site specific design, architecture, and other details of the submitted Planned Industrial Development Design Guidelines meet the design criteria of the Planned Development regulations and are therefore consistent with the requirements of the HR zone. The Mira Mesa Community Planning Group, voted 11:0:1 on October 18, 1999, to recommend approval with the following additional conditions:

1. All buildings shall be limited to a maximum of three stories in height;
2. Prior to the issuance of any building permit, a development plan package as defined on page 15 and 16 of the PID Text, shall be submitted to the Mira Mesa Community Planning Group for their review and approval, and;
3. Offsite acquisition required as mitigation for project impacts to the MHPA should be focused on sites north of State Route 52.

City Staff recommends certification of the Environmental Impact Report LDR No. 99-0036; adoption of the Mitigation Monitoring and Reporting Program with all mitigation necessary to reduce, to a level of insignificance, all significant impacts of the project as identified in the EIR; adoption of the Findings and Statement of Overriding Considerations; adoption of the rezone; approval of the Vesting Tentative Map; and approval of the Planned Industrial Development/Coastal Development Permit 99-0036 with the conditions recommended by the Mira Mesa Community Planning Group and those contained in the draft Tentative Map resolution and draft permit.

Headquarters Point Research Park - Open Space Easement Vacation proposes an open space easement vacation on City-owned property to allow development of an industrial project in the Mira Mesa Community Plan area. At Council direction on December 12, 2000, Headquarters Point Research Park was continued to March 13, 2001 to allow the open space easement vacation to be brought forward for consideration and to consolidate all necessary actions to make

a decision on the entire project. The open space easement was discovered during the final review of the project after title to the property transferred from the owner to the City. The easement is referenced only on the grant deed and not on the recorded subdivision map or title report. The vacation of the open space easement will not affect local or regional transportation facilities. City staff supports the necessary findings reflected in the vacation resolution and recommends certification of the Environmental Impact Report LDR No. 99-0036; adoption of the Mitigation Monitoring and Reporting Program with all mitigation necessary to reduce, to a level of insignificance, all significant impacts of the project as identified in the EIR; and approval of the Open Space Easement Vacation.

**FISCAL IMPACT:** None.

No cost to the City. All costs are recovered by a deposit account funded by the applicant.

Loveland/Christiansen/Griffith/JSF

**ENVIRONMENTAL IMPACT:**

Supplemental Environmental Impact Report (EIR) LDR No. 99-0036 has been prepared for the project in accordance with State CEQA Guidelines. A Mitigation Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to a level of insignificance, any potential impacts identified by the environmental review process.

**LEGAL DESCRIPTION:**

The project site is located within the Mira Mesa community on the east side of Interstate 805 between Vista Sorrento Parkway to the west, Mira Mesa Boulevard to the south and Lusk Boulevard to the north and is more particularly described as a portion of Lot 10 of Map 13604.

FILE LOCATION: SUBITEM A: NONE  
SUBITEM B, C, D, & E: PERM-99-0036 (65)

COUNCIL ACTION: (Tape location: D061-E527.)

Hearing began at 2:12 p.m. and halted at 3:26 p.m.

Testimony in opposition by Eric Bodlby and JoAnne Pearson.

MOTION BY MAIENSCHIN TO INTRODUCE THE ORDINANCE, AND ADOPT THE RESOLUTIONS GRANTING THE MAP AND THE PERMIT. ADOPT THE RESOLUTION CERTIFYING THE SUPPLEMENTAL EIR, THE MITIGATION, MONITORING AND REPORTING PROGRAM, THE FINDING AND STATEMENTS OF OVERRIDING CONSIDERATIONS, AND ADOPT THE RESOLUTION APPROVING THE OPEN SPACE EASEMENT VACATION. FURTHERMORE, ALL MITIGATION ASSOCIATED WITH THE HEADQUARTERS POINT RESEARCH PARK INCLUDING THE LOSS OF OPEN SPACE, AND THE MITIGATION ASSOCIATED WITH THE DEVELOPMENT ITSELF, MUST OCCUR WITHIN THE COASTAL ZONE. DIRECT THE CITY MANAGER TO REPORT BACK TO COUNCIL WITHIN 60 DAYS PRIOR TO MARKETING THE HEADQUARTERS POINT PROPERTY WITH A FULL FINANCIAL ANALYSIS THAT EXAMINES BOTH SELL AND LEASING OPTIONS. INCLUDE THE BOUNDARY ADJUSTMENTS FOR THE MHPA AS REQUESTED BY STAFF, AND ANY REVENUES RECEIVED FROM THIS PROPERTY EITHER THROUGH SALE OR LEASE, SHOULD BE USED TO FURTHER THE CITY'S OPEN SPACE GOALS. Second by Madaffer. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-nay, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-nay, Mayor Murphy-yea.

ITEM-351: Chevron Gas Station - Sorrento Hills.

(Continued from the meeting of April 17, 2001, Item 332, at the request of Councilmember Peters, to allow for the time necessary to do a site specific health risk assessment; and continued from the meeting of June 26, 2001, Item 330, at the request of the City Manager for further review.)

Matter of the appeals by Chevron Products and Richard Kiy for Torrey Hills Community Coalition, from the decision of the Planning Commission in denying the appeal of the decision of the Hearing Officer and approving the project with

modifications. Chevron Corporation proposes to construct and operate a limited-hours gas station, mini-mart and automated car wash facility on a vacant 2.48-acre site located at the southwest corner of Carmel Mountain Road and East Ocean Air Drive within the Sorrento Hills Community Plan area.

(99-1200 PCD/CUP. Sorrento Hills Community Plan area. District-1.)

**NOTE:** The public testimony portion of the hearing is closed, except for specific issues regarding health assessment. Testimony taken on 4/17/2001.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution in subitem A; and adopt the resolution in subitem B to deny the appeals and grant the permit:

Subitem-A: (R-2002- ) ADOPTED AS RESOLUTION R-295256

Adoption of a Resolution certifying that the information contained in Environmental Mitigated Negative Declaration (MND) LDR No. 99-1200 has been completed in compliance with the California Environmental Quality Act of 1970 and State guidelines, and that said MND reflects the independent judgment 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 (MMRP) prepared for the project, pursuant to California Public Resources Code Section 21081.

Subitem-B: (R-2002- ) DENIED APPEAL; GRANTED PERMIT,  
ADOPTED AS RESOLUTION R-295257

Adoption of a Resolution granting or denying the appeals and granting or denying Planned Commercial Development/Conditional Use Permit No. 99-1200, with appropriate findings to support Council action.

**OTHER RECOMMENDATIONS:**

Planning Commission on February 1, 2001, voted 6 - 0 to deny the Sorrento Hills Community Planning Board's appeal and upheld the previous decision of the Hearing Officer approving the project; however, the Commission conditioned their approval of this project upon modifications; was opposition.

Ayes: Anderson, Garcia, Steele, Brown, Butler, Stryker  
Not present: Skorepa

The Sorrento Hills Planning Committee on October 17, 2000, voted unanimously (8 - 0) to recommend denial of the project.

**CITY MANAGER SUPPORTING INFORMATION:**

**BACKGROUND:**

The 2.48-acre project site (Attachments 1 and 2) is located at the southwest corner of Carmel Mountain Road and East Ocean Air Drive within the CC-1-3 (formerly the CA) zone of the Sorrento Hills Community Plan. The Community Plan currently designates this site for neighborhood-commercial development; and includes specific language (and an accompanying illustration) in the plan text (Attachment 12) which identifies a gas station and car wash as permitted uses on the subject property (with approval of a Conditional Use Permit). The community plan also states that this site, which is identified in the plan text as part of a planned neighborhood-commercial center, should be developed as a Planned Commercial Development; hence the requirement for a PCD permit. The entire site is vacant and has been graded in accordance with a previous tentative map approved for the area and as a result, the majority of the site is relatively flat. The site is surrounded by vacant property designated for neighborhood-commercial development to the east; and vacant, steeply sloped property adjacent to the south which is designated for open space; and existing multi- and single-family development to the north (across Carmel Mountain Road). An existing SDG&E utility easement is located further to the southwest of the subject property (above the existing steep slope).

On March 17, 1997, the City Council approved an amendment to the Sorrento Hills Community Plan (CPA/RZ 95-0554 - "Torrey Hills") which, in part, redesignated the subject property from light-industrial to neighborhood-commercial; and amended the plan text to include specific language and an accompanying illustration in the amended plan text (pages 48-49 - Attachment 12) identifying a gas station and car wash as permitted uses on the project site. The 1997 plan amendment also included a corresponding rezone of the project site from M-1B to CA (now the CC-1-3 zone per the Land Development Code).

The CUP/PCD application for this project was submitted to and deemed complete by staff in December, 1999; and is therefore subject to the ordinance provisions of the Municipal Code applicable to this site prior to effectuation of the City's Land Development Code (January, 2000). In accordance with those code provisions, the proposed project is subject to the land use and development regulations of the (then-existing) CA zone, and requires approval of a

combination Planned Commercial Development/Conditional Use Permit.

On December 13, 2000, the Hearing Officer approved the proposed project. That decision was subsequently appealed to the Planning Commission by the Sorrento Hills Community Planning Board.

On February 1, 2001, the Planning Commission voted unanimously (6-0-0) to deny the Planning Board's appeal and upheld the previous decision of the Hearing Officer approving the project, subject to specific modifications of the project design and hours of operation for the proposed commercial uses on this site. There was a considerable amount of testimony presented in opposition to the project at this hearing and the decision of the Planning Commission was subsequently appealed to the City Council by both the applicant (Chevron Corporation) and the Torrey Hills Community Coalition (Attachment 9).

On April 17, 2001, the City Council considered the extraordinary appeal of the previous decision of the Planning Commission approving this project. At that hearing, there was a considerable amount of public testimony presented to the Council by area residents regarding potential air quality impacts associated with the proposed gas station use on this site; and specifically, potentially harmful impacts pertaining to human exposure to benzene ionization which may result from the operation of the proposed gas station use proximate to existing high voltage power lines to the south.

As a result of this testimony, the Council voted to continue this project and directed staff to prepare a "site specific health risk assessment," to be prepared by an independent toxicologist selected by staff. The Council requested that such an analysis be prepared in order to evaluate the project's potential adverse effects (if any) associated with human exposure to the ionization of benzene molecules which, as alleged by the scientific studies referenced by the Torrey Hills Community Coalition in their appeal, may occur as a result of contact (and subsequent ionization) of benzene emissions from the proposed gas station with existing high voltage power lines located south of this site (refer to "Discussion" section pertaining to Air Quality).

**PROJECT DESCRIPTION:**

In summary, the project proposes to construct and operate a self-service gasoline station, convenience store, and an automated car wash on the subject property (Attachments 2, 3 and 6). Following is a description of the various building and site improvements proposed for this project:

Gas station: Construct a self-service gas station in the central portion of the property (Attachment 2); including the installation of two (20,000 gallon) underground fuel storage tanks, six fuel pump islands (totaling 12 fuel dispensers), and construction of a 23-foot high steel frame canopy above the fuel pump area. This phase of the project requires approval of a Planned Commercial Development Permit and a Conditional Use Permit (per Municipal Code section 101.0510) to authorize the proposed gas station land use on the site.

Convenience store: Construct a one-story (3,000 square-foot) convenience store in the northeast portion of the property (Attachments 2 and 6). This building (maximum height of 26-feet) would be constructed with natural stone, painted stucco walls, and a clay tile roof. In addition to the retail sale of food, fuel and general merchandise items, the applicant is also proposing to sell alcoholic beverages (beer and wine only) in the convenience store, which requires a Conditional Use Permit (per Municipal Code section 101.0515).

Carwash: Construct a one-story automated car wash in the southeastern portion of the site, behind the proposed fuel pump area (Attachments 2 and 6). The plans indicate that the design of this structure (maximum height of 16-feet, 6-inches) would match the architectural style of the convenience store.

Parking: A total of 16 parking spaces would be provided on site for customers and employees of the development. The amount and location of these parking spaces is consistent with requirements of the City Engineer.

Access: Vehicle access to the site would be provided via the construction of three commercial driveways; including two (30-foot wide) driveways along the eastern project frontage on East Ocean Air Drive, and one (35-foot wide) driveway along the project's Carmel Mountain Road frontage.

Landscaping: The project's landscape plan (Attachment 3) includes a variety of street trees, shrubs and groundcovers which were selected by the applicant to achieve compliance with the City's Landscape Technical Manual and the Sorrento Hills Community Plan; and features the installation of a number of trees and decorative shrubs along the perimeter of both street frontages; and at various locations within the site's interior.

In accordance with the Planning Commission's approval of this project, and prior to the recordation of any permits with the County Recorder's Office, the applicant will be required to modify the project's landscape plan to replace all deciduous trees with non-deciduous species (24-inch box "broad leaf evergreen"); and install double-rows of evergreen shrubs (4- to 5-foot high) along the project frontage on Carmel Mountain Road to provide increased screening of the proposed commercial uses.

Exterior Lighting: Given the site's proximity to existing residential development to the north (across Carmel Mountain Road), the applicant has designed an exterior lighting plan for the project to minimize off-site lighting impacts, which features the use of low-pressure sodium lights to minimize light emanating outside of the project boundary. Additionally, external lights proposed on the walls of the convenience store and service station canopy will be aligned and shielded to refract only upon the hardscape surfaces below to minimize lighting glare from these "activity areas" on adjacent properties.

Hours of Operation: The applicant is proposing to operate the gas station and convenience store on this site between the hours of 5:00 a.m. - midnight; and the automated car wash between 7:00 a.m. - 10:00 p.m. The hours of operation proposed for the gas station / convenience store are inconsistent with the maximum hours (5:00 a.m. - midnight) approved by the Planning Commission this project.

NOTE: On March 20, 2001 Council voted unanimously to hear the appeals (Council District 2 - not present, Council District 6 - vacant).

FISCAL IMPACT: None.

Loveland/Christiansen/KZS

**LEGAL DESCRIPTION:**

The property is located at 11140 East Ocean Air Drive, on the southwest corner of Carmel Mountain Road and East Ocean Air Drive in the Sorrento Hills community and is more particularly described as Parcel 1, Map 18123.

FILE LOCATION: SUBITEMS A & B: PERM-99-1200 (65)

COUNCIL ACTION: (Tape location: D528-I210.)

Hearing began at 3:40 p.m. and halted at 6:55 p.m.

Testimony in opposition by Richard Kiy, Monica Kiy, Derek Kiy, Jim Casale, Diana Casale, Roger McKenna, Joan McKenna, Ethan Bier, Ben Bier, Kathryn Burton, Mica Martin, Walter Bays, Grazyna Krajewska, Guy Ravad, Joan Tukey, Rob Mullally, Todd Saier, Gigi Bainbridge, Tom Crosbie, and Mercedes Freire.

Testimony in favor by Christopher Neils, Patrick Betty, and Patti Krebs.

MOTION BY PETERS TO DENY THE APPEAL AND TO GRANT THE PERMIT.  
Second by Atkins. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea,  
Stevens-yea, Maienschein-nay, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-352: Reapproving the Issuance of Housing Revenue Bonds for Island Village  
Apartments.

(See San Diego Housing Commission Reports HCR-01-077(Supplemental) and  
HCR-01-077. Centre City Community Area. District-8.)

(Continued from the meeting of July 17, 2001, Item 334 at the request of the City  
Manager, for further review.)

**NOTE:** Hearing open. No testimony taken on 7/17/2001.

**SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-49 Cor. Copy) ADOPTED AS RESOLUTION R-295249

Reapproving the issuance of bonds by the Housing Authority of the City of San  
Diego not to exceed \$13,000,000 for the Island Village Apartments,  
approximately 280 units of multifamily rental housing located at 1245 Market  
Street, pursuant to Section 147(f) of the Internal Revenue Code of 1986.

**NOTE:** See Item 5 on the Housing Authority Agenda of July 31, 2001 for a companion item.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Tape location: B413-420.)

The hearing began at 11:23 a.m. and halted at 11:24 a.m.

MOTION BY STEVENS TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-not present, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

**PUBLIC NOTICES:**

Items are listed under Public Notice as a matter of public record only. These items do not require Council action and there is no public testimony.

ITEM-353: Notice of Pending Final Map Approval for “Torrey Glenn” and “Maryland Street Townhomes.”

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on those certain final maps entitled “Torrey Glenn” and “Maryland Street Townhomes,” copies of which are available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the maps to be examined and has made the following findings:

- 1) The Maps substantially conform to the approved tentative maps, and any approved alterations thereof and any conditions of approval imposed with said tentative maps.
- 2) The maps comply with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative maps.
- 3) The maps are technically correct.

Said maps will be deemed approved and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 5:00 p.m., 10 calendar days from the date of this notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the map approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619)446-5291.

ITEM-354: Settlement of the Property Damage Claim of Faruk and Trudy Burovic.

(R-2001-1283)

Adopted as Resolution R-294739.

A Resolution approved by the City Council in Closed Session on Tuesday, April 3, 2001, by the following vote: Peters-yea; Wear-yea; Atkins-yea; Stevens-yea; Maienschein-yea; District-6 vacant; Madaffer-yea; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the total sum of \$44,922.19 in the settlement of each and every claim against the City, its agents and employees, resulting from property damage to Faruk and Trudy Burovic, et al, as a result of an incident which occurred on January 30, 2000;

Authorizing the City Auditor and Comptroller to issue one check in the amount of \$44,922.19 made payable to Luth and Turley, Inc., in full settlement of all claims.

Aud. Cert. 2101000.

ITEM-355: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who then shall transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred back to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the March 5, 2002 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	9/14/2001	127	LAST DATE (10:00 a.m.) for public to submit ballot proposals to City Clerk for review by Rules Committee

Wednesday	9/26/2001	160	Rules Committee Review
Tuesday	10/23/2001	133	LAST DATE for City Manager, department or other public agency to submit ballot proposals to City Clerk for placement on Council Docket
Monday	10/29/2001	127	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee
Monday	11/05/2001	120	Council adopts propositions for ballot;
	through	to	directs City Attorney to prepare
Tuesday	11/20/2001	105	ordinances
Monday	11/26/2001	99	Council adopts ordinances prepared by City Attorney
Friday	12/07/2001	88	Last day for City Clerk to file with Registrar of Voters all election material
Thursday	12/20/2001	75	Last day to file ballot arguments with City Clerk

If you have any questions, please contact the Office of the City Clerk, at 533-4025.

\* ITEM-S500: Reappointment of Mr. Richard J. Kerman to the Civil Service Commission.

(See memorandum from Mayor Murphy dated 6/29/2001 with resume attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-226) ADOPTED AS RESOLUTION R-295250

Council confirmation of the reappointment by the Mayor of Richard J. Kerman, to serve as a member of the Civil Service Commission, for a five-year term ending January 9, 2006.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A060-115.)

CONSENT MOTION BY WEAR TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

NONE.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 6:26 p.m. in honor of the memory of:

Carl R. Kuhn, Sr. as requested by Council Member Maienschein.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: I211.)