

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, NOVEMBER 20, 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 10:09 a.m.

Mayor Murphy wished to make a presentation of a special commendation to John Dunchack for his involvement, hard work and excellent leadership as the Project Manager on the new expansion of the San Diego Convention Center. Mayor Murphy expressed that Mr. Dunchack was probably the most responsible for the Convention Center to have been built on time and under budget and that the dedicated service that he demonstrated has helped make San Diego a City worthy of our affection.

The meeting was recessed by Mayor Murphy at 11:53 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:05 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 4:30 p.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 4:40 p.m. with all Council Members present. Mayor Murphy recessed the regular meeting at 7:10 p.m. to convene the Redevelopment Agency. The regular meeting was reconvened by Mayor Murphy at 7:15 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 7:20 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 (ek/pr)

FILE LOCATION: MINUTES

ITEM-300: 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

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on lease revenue bonds and the way they are voted on by the City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A084-117.)

**PUBLIC COMMENT-2: REFERRED TO THE CITY MANAGER**

Dean Russo commented on the fireworks displays at Sea World and the residue produced by these displays, and that the number of annual displays may impact safety measures.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A118-171.)

**PUBLIC COMMENT-3:**

Fred Williams commented on the improvements to the City's web site but not to rest on our laurels, and to feature sites that will help citizens reach their individual goals.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A172-220.)

**PUBLIC COMMENT-4: REFERRED TO THE CITY MANAGER**

Laura Riebau commented regarding how the Brown Act governs the Redevelopment Agency.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A221-265.)

PUBLIC COMMENT-5:

Bert Decker commented on San Diego's military sites, and also on political contributions and conflicts of interest during political campaigns.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A266-311.)

PUBLIC COMMENT-6:

Mel Shapiro commented on hotel room income taxes and hotel room occupancy in the City of San Diego, and that the City Council should know where cost cuts can be made.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A312-357.)

PUBLIC COMMENT-7:

Steve McWilliams spoke about the Medical Marijuana Task Force and noted the support given by staff members of the City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A358-410.)

PUBLIC COMMENT-8:

Ron Boshun commented on the San Diego City Council and the law.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A411-449.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Wear informed the Council that Mr. Decker, who spoke earlier, was actually a contributor to Mr. Wear's campaign in previous elections.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A450-451.)

COUNCIL COMMENT-2:

Council Member Maienschein wished his Chief of Staff, Lance Witmond and his Legislative Analyst, Clint Carney, a very happy birthday.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A452-458.)

COUNCIL COMMENT-3:

Council Member Stevens wished Luis Natividad a very happy birthday. Luis has been on Council Member Stevens' staff for 10 years and has recovered from a number of operations.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A459-467.)

**COUNCIL COMMENT-4:**

Mayor Murphy noted that earlier, he had mentioned that we dedicated the new San Diego Convention Center Expansion, a significant event. Mayor Murphy commented that on Saturday, a second significant event happened which was the rolling out of the last recycling bin to bring curbside trash recycling citywide. He pointed out that a decade ago the City began a curbside recycling program in an effort to pick up from people's homes paper, cardboard, aluminum cans, glass bottle, and plastic containers and that the program has expanded until every household in San Diego now has a recycling bin. Mayor Murphy noted that economically, the program has been a big success, that it has reduced the trash flow to our landfills by 48 percent and, most importantly, by recycling precious resources such as trees, minerals and oils. He expressed that this is one of the good things that happens in city government. Mayor Murphy wished to commend both Rich Hayes and the Environmental Department of the City of San Diego for having implemented the program in an effective way, and Judy McCarty in the late 80s who saw this as a program that was environmentally sensitive and fiscally prudent. He also wished to thank the people of San Diego, that 80 percent of the people participated in trash recycling.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A468-495.)

**CITY ATTORNEY COMMENT:**

City Attorney Gwinn commented that yesterday, the City Attorney's Office was notified that the web site for the Domestic Violence Unit has been chosen as the model web site in the State of California by the California Women's Law Center. Mr. Gwinn mentioned that he congratulated his staff for receiving this award, but

that he does not talk enough publicly about this resource. He noted that it can actually be accessed through the City web site but that it has a stand-alone address that is much easier to reach, and that address is sandiegodvunit.org. Mr. Gwinn stated that, even as we acknowledge Mr. Madaffer today and his challenge to us in the City in working in the whole IT area, he wanted to acknowledge his staff who have worked closely with Data Processing Corporation and other volunteers to create this web site.

FILE LOCATION:

MINUTES

COUNCIL ACTION:

(Tape location: A495-521.)

CITY MANAGER COMMENT:

None.

ITEM-330: First Amendment to the Agreement with the United States of America Adopting a Development Plan and Urban Design Guidelines for the Redevelopment of the Navy Broadway Complex.

(See memorandum from CCDC dated 10/29/2001. Marina and Columbia Sub Areas of the Centre City Redevelopment Project. District-2.)

**CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2002-52) INTRODUCED, TO BE ADOPTED ON  
MONDAY, DECEMBER 3, 2001

Introduction of an Ordinance approving the First Amendment to the Agreement between the City of San Diego and the United States of America adopting a Development Plan and Urban Design Guidelines for the Redevelopment of the Navy Broadway Complex.



FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A522-534.)

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

Hearing began at 10:46 a.m. and halted at 10:47 a.m.

ITEM-S500: Nine actions related to the Ballpark Redevelopment Project.

(See City Manager Report CMR-01-239 Revised.)

(Continued from the meeting of November 13, 2001, Item 330, at the request of Mayor Murphy, to allow the public and the Council to be updated.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A-1: (R-2002-550 Rev.1) ADOPTED AS RESOLUTION R-295760

Adopting a resolution authorizing and approving a disclosure document (the "Offering Document") with respect to the issuance of Lease Revenue Bonds (Ballpark Bonds) by the Public Facilities Financing Authority to finance a portion of the City's contribution to the Ballpark Project and Redevelopment Project.

Subitem-A-2: (R-2002-690) ADOPTED AS RESOLUTION R-295761

Adopting a resolution authorizing and approving the sale of the Ballpark Bonds as tax-exempt obligations through a Contract of Purchase (Purchase Contract) with Merrill Lynch, Pierce, Fenner & Smith Incorporated (Merrill Lynch), involving an initial purchase of the Ballpark Bonds by Merrill Lynch and, subject to certain restrictions, the subsequent placement of the Ballpark Bonds with a limited group of institutional investors, which may include an affiliate of Merrill Lynch.

Subitem-B: (R-2002-636 Rev.1) ADOPTED AS RESOLUTION R-295762

Adopting a resolution authorizing and approving a Continuing Disclosure Agreement (CDA between the City and the trustee for the project with respect to the issuance of Ballpark Bonds by the Authority to finance a portion of the City's contribution to the Ballpark Project.

Subitem-C: (R-2002-515 Rev. 1) ADOPTED AS RESOLUTION R-295763

Adopting resolutions on behalf of the City and Redevelopment Agency authorizing and directing the execution of the Second Implementation Agreement.

NOTE: See the Redevelopment Agency Agenda of November 20, 2001 for a companion item to Subitem C.

Subitem-D: (R-2002-594) ADOPTED AS RESOLUTION R-295764

Adopting a resolution declaring the City's intent to reimburse itself for certain contributions to the Ballpark Project in the event refunding bonds are issued with respect to the Ballpark Bonds.

Subitem-E: (R-2002-643) ADOPTED AS RESOLUTION R-295765

Adopting a resolution authorizing the repayment of loans totaling \$40.2 million to the City, and the acceptance of loans totaling \$40.2 million from the Agency.

Subitem-F: (R-2002-645) ADOPTED AS RESOLUTION R-295766

Adopting a resolution revising CIP-39-228.0, Ballpark and Redevelopment Project; authorizing the appropriation of funds as detailed in the revised CIP, and set forth in Attachment A to the City Manager's Report No. CMR-01-239, for the purpose of funding expenses associated with the City's contribution to the Ballpark Project; and on a temporary basis authorizing the City Manager and City Auditor and Comptroller to utilize available funds as necessary for these purposes, until such time as appropriated funds anticipated to come into the treasury for such purposes are available.

Subitem-G: (R-2002-646) ADOPTED AS RESOLUTION R-295767

Adopting a resolution authorizing the City Manager, and the City Auditor and Comptroller to take certain actions on behalf of the City, if necessary, to meet the City's obligations with respect to Ballpark Project costs if the City is unable to meet certain conditions relating to a surety bond policy for the Ballpark Bonds.

Subitem-H: (R-2002-647) ADOPTED AS RESOLUTION R-295768

Adopting a resolution authorizing the City Manager, and the City Auditor and Comptroller to take certain actions on behalf of the City if necessary, to purchase and develop the Surface Lots if the Port does not purchase the lots under the Purchase and Sale Agreement.

FILE LOCATION: SUBITEMS A-1, A-2, B, C, D, E, F, G, & H:  
MEET (64)

COUNCIL ACTION: (Tape location: B074-C180; D015-G193.)

MOTION BY WEAR TO FIND THAT IT IS IN THE BEST INTERESTS OF THE CITY, AND THAT IT IS PRUDENT AND REASONABLE TO MOVE FORWARD WITH THE CITY'S FINANCING FOR THE BALLPARK PROJECT, AND TO ADOPT THE RESOLUTIONS IN SUBITEM A-1 AND A-2 AUTHORIZING AND APPROVING THE OFFERING DOCUMENT AND THE AMENDED AND RESTATED PURCHASE CONTRACT. TO ADOPT THE RESOLUTION IN SUBITEM B TO AUTHORIZE AND APPROVE A CONTINUING DISCLOSURE AGREEMENT. TO ADOPT THE RESOLUTION IN SUBITEM C TO AUTHORIZE AND DIRECT THE EXECUTION OF THE SECOND IMPLEMENTATION AGREEMENT. TO ADOPT THE RESOLUTION IN SUBITEM D TO DECLARE THE CITY'S INTENT TO REIMBURSE ITSELF FOR CERTAIN CONTRIBUTIONS TO THE BALLPARK PROJECT IN THE EVENT REFUNDING BONDS ARE ISSUED WITH RESPECT TO THE BALLPARK BONDS. TO ADOPT THE RESOLUTION IN SUBITEM E TO AUTHORIZE THE ACCEPTANCE OF LOANS TOTALING \$40.2 MILLION FROM THE AGENCY. TO ADOPT THE RESOLUTION IN SUBITEM F TO REVISE CIP #39.228.0 BALLPARK AND REDEVELOPMENT PROJECT. TO ADOPT THE RESOLUTION IN SUBITEM G TO AUTHORIZE THE CITY MANAGER, AND THE CITY AUDITOR AND COMPTROLLER TO TAKE CERTAIN ACTIONS ON BEHALF OF THE CITY, IF NECESSARY, TO MEET THE CITY'S OBLIGATIONS WITH RESPECT TO BALLPARK PROJECT COSTS IF CERTAIN CONDITIONS RELATING TO A

SURETY BOND POLICY FOR THE BALLPARK BONDS ARE NOT MET. TO ADOPT THE RESOLUTION IN SUBITEM H TO AUTHORIZE THE CITY MANAGER, AND THE CITY AUDITOR AND COMPTROLLER TO TAKE CERTAIN ACTIONS ON BEHALF OF THE CITY, IF NECESSARY, TO PURCHASE AND DEVELOP TAILGATE PARK IF THE PORT DOES NOT PURCHASE THE LOTS UNDER THE PURCHASE AND SALE AGREEMENT. Second by Madaffer. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S501: Ballpark and Redevelopment Project - Amendment to the Financial Advisory Services Agreement.

(Centre City East Community Area. District-2.)

(Continued from the meeting of November 13, 2001, Item 332, at the request of Mayor Murphy, to allow the public and Council to be updated.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-529 Cor. Copy) ADOPTED AS RESOLUTION R-295769

Authorizing the City Manager to execute an amendment to the agreement between the City and A.G. Edwards, for Financial Advisory Services concerning the Ballpark and Redevelopment Project;

Authorizing the expenditure of an amount not to exceed \$140,000 from Ballpark Project Fund 102214.

**CITY MANAGER SUPPORTING INFORMATION:**

The City desires to amend the agreement with A.G. Edwards to increase total expenditures for financial services relating to the Ballpark & Redevelopment Project by \$140,000. These additional expenditures include \$125,000 for fees and \$15,000 for expenses. Of this \$140,000 increase in total expenditures, \$80,000 will be allocated to A.G. Edwards, \$50,000 to Kitahata & Company, and \$10,000 to Municipal Capital Management. The need for these additional financial advisory resources stems from the complex nature of the financing for the Ballpark Project.

**FISCAL IMPACT:**

The amended agreement between the City and A.G. Edwards will increase total expenditures to a not to exceed amount of \$650,000 for fees and \$87,500 for expenses for a total contract amount of \$737,500. Funds are currently available in the Entertainment/Sports Center - Ballpark Project Fund.

Total fiscal impact for this action is \$140,000. Total costs for these services will be paid out of the Entertainment/Sports Center - Ballpark Project Fund.

Frazier/Vattimo/EK/JW

Aud. Certs. 2200402/2200403/2200569.

FILE LOCATION: MEET (64)

COUNCIL ACTION: (Tape location: J553-556.)

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

ITEM-S502: Second Amendment to Agreement for Ballpark Disclosure Counsel Services and Litigation Review.

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-689) ADOPTED AS RESOLUTION R-295770

Authorizing the City Manager to execute a Second Amendment to the Agreement with Orrick, Herrington and Sutcliffe, for Ballpark Disclosure Counsel and Litigation Review Services;

Authorizing the expenditure of an amount not to exceed \$400,000 from Facilities Ballpark Fund 102214 for providing funds for the project.

**SUPPORTING INFORMATION:**

Orrick currently is acting as Bond and Disclosure Counsel in the proposed financing for the Ballpark and Downtown Redevelopment Project. Due to the numerous lawsuits that have been initiated on the project, the City engaged Orrick to review the litigation and its impact on the bond financing. Pursuant to an Agreement for Disclosure Counsel and Litigation Review Services between the City and Orrick [Agreement] (Document No. RR-293412), and a First Amendment thereto (Document No. RR-295459) these services have already been undertaken by Orrick. Others are ongoing as the City proceeds with the various lawsuits filed pertaining to the Ballpark and Downtown Redevelopment Project. Because of the length of time to bring this financing, forward and ongoing legal issues related to the financing, an amendment to the Agreement is needed to increase Orrick's compensation by an additional \$400,000.

Devaney/KS

Aud. Cert. 2200557.

FILE LOCATION: MEET (64)

COUNCIL ACTION: (Tape location: J567-568.)

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

**NON-DOCKET ITEMS:**

None.

**ADJOURNMENT:**

The meeting was adjourned by Mayor Murphy at 7:20 p.m.

FILE LOCATION:

MINUTES

COUNCIL ACTION:

(Tape location: K015.)