

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, JUNE 24, 2003  
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 10:01 a.m. Mayor Murphy recessed the meeting at 11:06 a.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 11:11 a.m. with all Council Members 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 2:08 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 3:24 p.m. immediately into Closed Session in the twelfth floor conference room to discuss existing and anticipated litigation.

ATTENDANCE DURING THE MEETING:

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

Clerk-Abdelnour (ek/gS)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-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:

Assembly Person Christine Kehoe commented regarding the State budget crisis, and gave her perspective of the scope and scale of the crisis.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:08 a.m. - 10:17 a.m.)

PUBLIC COMMENT-2:

Don Stillwell commented on the costs of running the City and how \$20 million was to be spent for City employees.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:18 a.m. - 10:20 a.m.)

PUBLIC COMMENT-3:

Judie Italiano thanked the Council for the time spent on the budget and resolving the budget problems.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:21 a.m. - 10:22 a.m.)

PUBLIC COMMENT-4:

Al Strohlein commented on the charges imposed for using City parks and the costs for functions held at Sea World, and the expenses for fireworks displays.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:23 a.m. - 10:25 a.m.)

PUBLIC COMMENT-5:

Kathryn Burton commented on the ongoing Torrey Hills litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:26 a.m. - 10:29 a.m.)

PUBLIC COMMENT-6:

Jarvis Ross complimented the City Council on its handling of the budget and how funds were distributed.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:30 a.m. - 10:32 a.m.)

PUBLIC COMMENT-7:

Michael Aguirre requested that a report from the City Attorney's Office be made public regarding the trigger clause by the San Diego Chargers.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:35 a.m.)

PUBLIC COMMENT-8:

Jose Lopez commented on the Fox Canyon Neighborhood Park.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. - 10:36 a.m.)

PUBLIC COMMENT-9:

Barbara Krumvieda commented on leukemia and lymphoma, and thanked the City Council for its support of the Suzuki Rock 'N' Roll Marathon.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:37 a.m. - 10:39 a.m.)

PUBLIC COMMENT-10:

Frank Deluca also commented on the Rock 'N' Roll Marathon and the diverse volunteer groups who cleaned up after the event.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:40 a.m. - 10:41 a.m.)

PUBLIC COMMENT-11:

Michael Eden commented on pedestrian safety in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:42 a.m. - 10:43 a.m.)

PUBLIC COMMENT-12:

Kevin Hauck commented on the fair enforcing of ordinances regarding conditional-use permits for store locations.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. - 10:46 a.m.)

PUBLIC COMMENT-13:

Sharon McKernan from the Bristol Hotel commented on behalf of the hospitality industry regarding the Rock 'N' Roll Marathon.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. - 10:48 a.m.)

PUBLIC COMMENT-14:

Dave Thompson wished to thank the Council for the opportunity to speak publicly, and also commented on the major drug problem facing the country.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:49 a.m. - 10:51 a.m.)



PUBLIC COMMENT-15:

Barbara MacKenzie commented on the legislative actions under the State Constitution regarding the medical use of marijuana.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:52 a.m. - 10:54 a.m.)

PUBLIC COMMENT-16: **REFERRED TO THE CITY MANAGER**

Paul Kroell commented on the use of quieter buses during nighttime hours, as well as limiting use of helicopters and sirens.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:55 a.m. - 10:58 a.m.)

PUBLIC COMMENT-17: **REFERRED TO THE CITY MANAGER**

Tom Minor commented regarding the rent paid to the City from Sunset Park, where he lives, and also requested an extension on the residents' stay in the park.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:59 a.m. - 11:03 a.m.)

PUBLIC COMMENT-18:

Ron Boshun commented on the actions of the City Council and the City Attorney.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:04 a.m. - 11:05 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Peters commented on the Torrey Hills project and the recent court decisions.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:13 a.m. - 11:13 a.m.)

COUNCIL COMMENT-2:

Council Member Madaffer commented on the State and City budgets, noting that the deficit went from \$30 billion to \$38 billion, and that any additional requests for money from the State would result in a disproportionate share from San Diego.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:14 a.m. - 11:17 a.m.)

COUNCIL COMMENT-3:

Council Member Inzunza wished Council Member Maienschein and his wife a happy Eighth Anniversary.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:18 a.m. - 11:18 a.m.)

COUNCIL COMMENT-4:

Council Member Atkins wished to thank various persons who attended the Volunteer Appreciation Luncheon at Balboa Park, which included persons in the Police Department and other entities.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:22 a.m. - 11:22 a.m.)

**CITY MANAGER COMMENT:**

None.

**CITY ATTORNEY COMMENT:**

City Attorney Casey Gwinn commented on and acknowledged Council Member Peters' comments regarding the legal issues surrounding the Torrey Hills project. Mr. Gwinn also commented on his attendance at the Disability Awareness Rally where people had the opportunity to advocate equal access and the progress made in this program.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:19 a.m. - 11:21 a.m.)

\* ITEM-50: Torrey Hills (formerly Sorrento Hills) Commercial Rezone. (Sorrento Hills Community Plan Area. District-1.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 6/10/2003. (Council voted 9-0):

(O-2003-154) ADOPTED AS ORDINANCE O-19193 (New Series)

Rezoning 2.49 acres located on the southwest corner of Carmel Mountain Road and East Ocean Air Drive, within the Torrey Hills (formerly Sorrento Hills) Community Plan Area from the CC-1-3 Community Commercial Zone

(previously referred to as the CA Zone) into the CN-1-2 Neighborhood Zone (previously referred to as the CN Zone), as defined by San Diego Municipal Code Sections 131.0507.B.1 and 131.0502.B.

**FILE LOCATION:** LUP-Torrey Hills (formerly Sorrento Hills) Commercial Rezone, 06/24/03 (65)

**COUNCIL ACTION:** (Time duration: 10:01 a.m. - 10:02 a.m.)

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

\* ITEM-51: Sixth Amendment to Agreement with MTDB for Taxicab Regulation.

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2003-157) INTRODUCED, TO BE ADOPTED MONDAY, JULY 14, 2003

Introduction of an Ordinance authorizing the City Manager to execute a Sixth Amendment to Agreement with Metropolitan Transit Development (MTDB), to continue the administration of taxicabs and other private for-hire vehicle regulations, for a five-year period beginning July 1, 2003.

**CITY MANAGER SUPPORTING INFORMATION:**

This action enters into a Sixth Amendment to Agreement with the Metropolitan Transit Development Board to continue the administration of taxicabs and other for-hire vehicles regulations, for a five-year period beginning July 1, 2003.

MTDB has provided the administration of taxicabs and for-hire vehicles for the City since July 1, 1988. The Fifth Amendment to Agreement was approved by Council Ordinance Number O-18526 in 1998, and extended the Agreement from July 1, 1998 to June 30, 2003.

**FISCAL IMPACT:**

None with this action.

Ewell/Goldberg/SPC

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:01 a.m. - 10:02 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-100: Consultant Contract for Los Peñasquitos Watershed Management Plan (LPWMP).

(North City Future Urbanizing Areas (Subareas 1-5), Sabre Springs, Sorrento Hills, Carmel Valley, Torrey Pines, Rancho Peñasquitos, Carmel Mountain Ranch, Mira Mesa, Rancho Bernardo, University, Scripps/Miramar, Miramar Ranch North Community Areas. Districts-1 and 5.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1344) ADOPTED AS RESOLUTION R-298108

Authorizing the City Manager to enter into a contract with AMEC Consulting in an amount not to exceed \$225,000, for preparation of the Los Peñasquitos Watershed Management Plan, for which grant funding has already been awarded to the City and approved by Council, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Manager to conduct all negotiations, execute and submit all documents, including but not limited to applications, amendments, and payment requests which may be necessary for the completion of the project.

**CITY MANAGER SUPPORTING INFORMATION:**

The City of San Diego in conjunction with the Cities of Poway, Del Mar and the County of San Diego are preparing a watershed management plan for the Los Peñasquitos Watershed that will comprehensively address the sources of water quality impairment, and opportunities and constraints for water quality improvement. The City of San Diego has secured two grants to facilitate this planning effort, as follows:

A \$200,000 Proposition 13 grant from the State Water Resources Control Board (SWRCB) was awarded to the City (approved by Council on September 24, 2001 [Resolution No. R-295483]) to complete a watershed management plan for the Los Peñasquitos watershed. The Los Peñasquitos Watershed Management Plan (LPWMP) will identify and prioritize measures to preserve and/or improve the health of the watershed based on an assessment of existing watershed resources, threats and opportunities. \$150,000 was allocated for consultant services with the remaining monies to reimburse City staff for their time and materials to work on the project.

A \$150,000 Section 6 grant from the U. S. Fish and Wildlife was awarded to the City (approved by Council on October 14, 2002 [Resolution No. R-297173]) for preparation of planning-level wetland delineations and functional wetland assessments for the Los Peñasquitos and Otay River Valley watersheds. The wetland delineations and functional assessments will evaluate wetland resources and identify potential restoration/enhancement opportunities within the watersheds. The results will be incorporated into the larger watershed management plan effort. \$75,000 was allocated for the Los Peñasquitos watershed.

City staff, in cooperation with the Cities of Del Mar and Poway, and the non-profit Los Peñasquitos Lagoon Foundation have selected the firm of AMEC Consulting to prepare the LPWMP for a cost not to exceed \$225,000. AMEC was selected from a pool of candidates in accordance with A.R. 25.70 (Hiring of Consultants other than Architects and Engineers). AMEC currently has two active contracts with the City totaling \$69,000. With the contract for preparation of the LPWMP, AMEC would cumulatively exceed \$250,000 during a fiscal year; therefore, Council action is required to approve entering into the contract.

**FISCAL IMPACT:**

A total not to exceed \$225,000 would be paid to AMEC for their contractual services. All of the monies would come from state or federal funding.

Ewell/Goldberg/KG

Aud. Cert. 2300960.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:01 a.m. - 10:02 a.m.)

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

\* ITEM-101: Brown Field Airport Soil Remediation Project.

(Otay Mesa and San Ysidro Community Areas. District-8.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1485)ADOPTED AS RESOLUTION R-298109

Authorizing and directing the City Auditor and Comptroller to amend the CIP budget to increase CIP-33-084.0, Underground Hazardous Materials Storage Tanks, Fund 30244, by the amount of \$120,000, from Fund 41100, Fund Balance, in accordance with the 2003 Appropriation Ordinance;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$120,000 from CIP-33-084.0, Underground Hazardous Materials Storage Tanks, Fund 30244, for the Brown Field Airport Soil Remediation Project.

**CITY MANAGER SUPPORTING INFORMATION:**

The proposed resolutions will transfer \$120,000 from Airport Fund 10511 to the Underground Hazardous Materials Storage Tanks CIP-33-084.0, to fund the Brown Field Airport Soil Remediation Project. This project will continue the assessment of petroleum contamination from

leaking underground storage tanks (UST's) at Brown Field Airport. Approximately \$1.3 million in Airport Division funds have been spent to remove the UST's, and to clean up and delineate the extent of the petroleum contaminated soil and groundwater at Brown Field Airport. In 1991, the USTP applied to the State Water Resources Control Board UST Cleanup Fund Program (UST Cleanup Fund) for reimbursement of assessment and cleanup costs. The application was funded in 2001. To date, \$102,959 has been received from the UST Cleanup Fund.

The next phase of assessment is estimated to cost \$338,000. The \$120,000 to be considered under this action, along with existing encumbered funds, will provide funds for the required assessment. The additional assessment is necessary to meet regulatory requirements that protect the public health and the water resources of California. Further assessment will determine the extent of aviation gas and diesel fuel contamination in the soil and groundwater at Brown Field Airport, and the extent of clean up that will be required to meet regulatory concerns and allow consideration of future redevelopment. Approximately 80% of the \$338,000 will be eligible for reimbursement from the State UST Cleanup Fund.

**FISCAL IMPACT:**

This request is for \$120,000, which is available from Airport Fund 41100 Fund Balance. This funding will be used to augment laboratory and drilling contracts along with existing Airport Fund encumbrances. Existing encumbrances include \$102,959 from the UST Cleanup Fund for reimbursement of assessment and clean up costs previously incurred at Brown Field Airport.

Loveland/Hays/TWO

Aud. Cert. 2301246.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:01 a.m. - 10:02 a.m.)

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

\* ITEM-102: South Bay Pump Station and Conveyance System-Phase 1 - Property Acquisition.

(See memorandum from Scott Tulloch dated 4/23/2003. City of Chula Vista.)



**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2003-1215)ADOPTED AS RESOLUTION R-298110

Authorizing the City Manager to expend an additional amount not to exceed \$50,000 from Fund No. 41509, CIP-40-911.1, South Bay Pump Station and Conveyance System - Phase I, for the acquisition of property rights to the Pump Station Site and related costs, for a total amount not to exceed \$167,000, provided that the City Auditor and Comptroller has first certified that the funds are, or will be, on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller upon advice from the administering department, to transfer any remaining funds to the appropriate reserves, if the funds expended for acquisition of the Pump Station Site and related costs are less than \$167,000.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 4/30/2003, NR&C voted 5 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

**SUPPORTING INFORMATION:**

On June 19, 2001, the City Council adopted Resolution R-295060, authorizing funding and the acquisition of a 0.99 acre sewer pump station site northwesterly of the intersection of Woodlawn Avenue and Sea Vale Street in the City of Chula Vista for the future South Bay Pump Station and Conveyance Project. This action was in compliance with a Memorandum of Understanding the City Council approved on February 22, 2000, with the City of Chula Vista agreeing to the location of the pump station and pipeline system within the boundaries of the City of Chula Vista.

The planned future South Bay Pump Station and South Bay Wastewater Treatment Plant will provide long term treatment capacity in the South Bay region. It is not anticipated that the pump station and treatment plant will be constructed prior to 2018, however, it is essential that the pump station site be secured now to ensure its availability and to be able to continue to identify this site as a future pump station site to the community.

An Environmental Impact Report No. 99-1024, in connection with the South Bay Conveyance System Pump Station and Conveyance System, LDR-99-1024 was completed in compliance with the California Environmental Quality Act of 1970, as amended, and was certified by the City Council on June 19, 2001.

This action authorizes the expenditure of up to \$50,000 in additional funding, estimated to be necessary to complete the purchase of property rights and cover related acquisition project costs. This brings the total authorized for acquisition to \$167,000.

**FISCAL IMPACT:**

Funding in the amount of \$50,000 to complete the purchase of the property and cover related acquisition costs is available in Fund 41509, CIP-40-911.1, South Bay Pump Station and Conveyance System - Phase I.

Herring/Griffith/SAC

Aud. Cert. 2301153.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:01 a.m. - 10:02 a.m.)

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

\* ITEM-103: Sale of Excess Camino Del Sur (Camino Ruiz) Right of Way.

(Torrey Highlands Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1488) ADOPTED AS RESOLUTION R-298111

Authorizing the City Manager to execute a Grant Deed conveying the 0.104 acres of City-owned excess real property to Torrey Highlands Retail, LLC for \$52,000.

**CITY MANAGER SUPPORTING INFORMATION:**

On March 4, 2002 the City purchased right-of-way for Camino Del Sur (Camino Ruiz) from Western Pacific Housing-Torrey Village Center, LLC (WPH). The City has determined that 0.104 acres, a portion of the original right-of-way, is excess to its requirements for the street and it was vacated by Resolution R-296954, adopted on August 5, 2002. At the time the City acquired the right-of-way, WPH indicated they would be willing to buy back from the City any land that was deemed excess in the future.

This action will convey the excess right-of-way to WPH's successor in interest, Torrey Highlands Retail, LLC, for \$52,000. This value is based upon the original acquisition cost paid by the City. As additional consideration Torrey Highlands Retail, LLC has agreed to deed to the City 0.92 acres of right-of-way required for the future west bound on-ramp to SR-56 from Camino Del Sur (Camino Ruiz) at no cost to the City. This exchange of right-of-way represents a significant savings to the City because the City would have been required to purchase the 0.92 acre parcel for the on-ramp right-of-way at a later date at Fair Market Value.

**FISCAL IMPACT:**

\$52,000 to be deposited into CIP-52-463.0, FBA Fund No. 39225.

Herring/Griffith/RAG

FILE LOCATION: DEED F-9553

COUNCIL ACTION: (Time duration: 10:01 a.m. - 10:02 a.m.)

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

ITEM-104: Agreement for Professional Services - Balboa Park Parking, Circulation and Land Use Study.

(Balboa Park Community Area. District-3.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1454)            ADOPTED AS RESOLUTION R-298112

Authorizing the City Manager to execute a Fixed Fee Agreement between the City of San Diego and Jones and Jones Architects and Landscape Architects, Ltd., for Consulting Services (Agreement) regarding professional services required for planning services for the Balboa Park Parking, Circulation and Land Use Study;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$725,000 from CIP-21-859.0, Balboa Park Parking, Circulation and Land Use Study, Fund No. 38190, 2002 State Budget Fund, for the purpose of executing the Agreement.

**CITY MANAGER SUPPORTING INFORMATION:**

The development in Balboa Park is regulated by the Balboa Park Master Plan which was adopted by City Council on July 25, 1989, the Central Mesa Precise Plan which was adopted by City Council on October 20, 1992, and the East Mesa Precise Plan which was adopted by City Council on April 13, 1993. In the past 14 years since the adoption of the Master Plan, the Park has seen a dramatic increase in demand for cultural and recreational uses. The growth of the community surrounding the Park has also resulted in impacts on the park, including an increased demand for parking. Due to the increased demands on the Park, there is a need to review and update circulation, parking and land use information.

The City of San Diego Park and Recreation Department issued a Request for Qualifications to solicit professional consulting firms to prepare a comprehensive study for parking, circulation and land use for the central area of Balboa Park. The Statements of Qualifications were accepted from seven separate consulting firms, and all firms were interviewed by a panel of individuals representing the City, the Balboa Park Committee and the community. During the interview process, each of the consultant teams were posed with the same list of ten questions relating to the team's qualifications to perform the scope of work. The questions were formulated with the input of the members of the Balboa Park Committee and Park and Recreation Department staff. Each of the questions was assigned an individual point value based on the importance of the question related to the scope of work. The interview panel members scored the consultant teams

based on how they feel the questions were answered. The scores were then tabulated to determine the most qualified consultant team. Of the consultant teams interviewed, the interview panel unanimously selected the team of Jones & Jones as the most qualified to provide the comprehensive planning and community relations services desired for Balboa Park Parking, Circulation and Land Use Study.

Council Action is required for this Agreement because the contract award will exceed \$250,000 in this fiscal year.

**FISCAL IMPACT:**

Funding for this Agreement is available from CIP-21-859.0, Balboa Park Parking, Circulation and Land Use Study, 2002 State Budget fund.

Herring/Oppenheim/CD

Aud. Cert. 2301209.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. - 10:06 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-105: Temporary Fire Station - Lease Agreement - 47<sup>th</sup> Street.

(Southeastern San Diego Community Area. District-4.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1444)ADOPTED AS RESOLUTION R-298113

Authorizing the City Manager to execute a Lease Agreement with El Rey Trailer Plaza, for lot space to be occupied by the San Diego Fire Department for temporary Fire Station No. 12;

Authorizing the City Auditor and Comptroller to appropriate and expend from CIP-33-081.0, Fire Station No. 12, Fund 92110, Fire and Life Safety Construction Fund, in an initial amount not to exceed \$23,126.40.

**CITY MANAGER SUPPORTING INFORMATION:**

San Diego Fire Department Station No. 12, located at 4964 Imperial Avenue in San Diego will be undergoing reconstruction beginning in April 2003. It is anticipated that this construction project will take approximately 24 months to complete. A temporary site to relocate Station No. 12 was found at the El Rey Trailer Plaza lot at 303 North 47<sup>th</sup> Street which is in close proximity to the existing fire station.

The Fire Department proposes to lease the site under the following basic terms:

Term - Twenty-four (24) months, commencing April 1, 2003 with the option to extend the term on a month-to-month tenancy should any construction delays occur.

Size - Approximately 9,636 square foot vacant lot.

Rent - \$0.10 per square foot or \$963.60 per month. Rent is flat throughout the term. The rent is below market compared to similar lot space in the area which is ranging between \$0.16 to \$0.25 per square foot.

Use - Temporary fire station use for Station No. 12. Trailers will be moved onto the lot for the use of the Fire Department during the course of construction for new Station No. 12.

**FISCAL IMPACT:**

\$23,126.40 will be paid from the Fire Station No. 12, Fund 92110, Fire and Life Safety Construction Fund.

Herring/Griffith/DLM

Aud. Cert. 2301173.

FILE LOCATION: LEAS-El Rey Trailer Plaza

COUNCIL ACTION: (Time duration: 10:01 a.m. - 10:02 a.m.)

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

\* ITEM-106: Balboa Avenue Streetscape Improvements - Cooperative Agreement with Caltrans.

(Clairemont Mesa Community Area. District-6.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1478)            ADOPTED AS RESOLUTION R-298114

Authorizing the City Manager to execute a Contribution Agreement with the State of California, Department of Transportation, for the design and construction of the Balboa Avenue Streetscape Project ("Project");

Authorizing the City Auditor and Comptroller to establish a special fund to receive a TEA-21 grant and accept said grant in the amount of \$683,000 for the Project;

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2003 Capital Improvements Program Budget by \$958,000 for CIP-52-496.0, Balboa Avenue Streetscape;

Authorizing the City Auditor and Comptroller to appropriate and expend \$683,000 of the TEA-21 funds from the newly established fund, CIP-52-496.0, Balboa Avenue Streetscape, for the purposes of design and construction of the Project, pending receipt of a fully executed Contribution Agreement;

Authorizing the City Auditor and Comptroller, upon the direction of the City Manager, to transfer an amount up to \$275,000 within Fund 38978, from CIP-52-274.0, Balboa Avenue Corridor Improvements, to CIP-52-496.0, Balboa Avenue Streetscape Improvements, provided that the City Auditor and Comptroller first

furnishes a certificate demonstrating that the fund necessary for expenditure are, or will be, on deposit with the City Treasurer.

**CITY MANAGER SUPPORTING INFORMATION:**

The Balboa Avenue Streetscape Improvements Project includes landscaping, irrigation, and related improvements along Balboa Avenue (previously State Route 274) from Interstate 805 to Interstate 5, within the Clairemont Mesa business district corridor. The City project was created as a result of the Balboa Avenue (SR-274) and Rosecrans (SR-209) Cooperative Agreement with the State for the transfer of ownership for these former highways. The project is consistent with the Balboa Avenue Visionary Plan, which is currently in the final stages of development. The work consists of approximately 3.3 miles of improvements to the existing medians, as well as community identification signs and other streetscape related improvements. During the development of the conceptual plan for this project, the community requested that additional areas of streetscape improvements be considered, beyond the original project limits. This action will provide the primary funding (Federal TEA-21) for the work, as well as provision for additional funding necessary to cover the new areas requested by the community.

**FISCAL IMPACT:**

The total project cost is \$1,240,000. Of this amount, \$683,000 of Federal SHOPP TEA-21 funds will be made available by this action through the Cooperative Agreement and \$282,000 is available from Fund 38978, CIP-52-496.0, Balboa Avenue Streetscape Improvements. If needed,

the remaining \$275,000 of additional funding is available from Fund 38978, CIP-52-274.0, Balboa Avenue Corridor Improvements.

Loveland/Belock/PB

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:01 a.m. - 10:02 a.m.)

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



\* ITEM-107: Joint Use Agreement No. 25501 with the State of California, Department of Transportation.

(North Park Community Area. District-3.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1471)ADOPTED AS RESOLUTION R-298115

Authorizing the City Manager to execute Joint Use Agreement No. 25501 with the State of California, Department of Transportation, for the rearrangement of water facilities along Interstate 15.

**CITY MANAGER SUPPORTING INFORMATION:**

The State of California, Department of Transportation has relocated water facilities which interfered with or obstructed the construction, reconstruction, maintenance at State Route 15.

These water facilities were within City right-of-way and now they are moved within the State right-of-way easement. The State prepared relocations plans and paid for construction.

This Joint Use Agreement will reserve the City's prior rights for these relocated water facilities within the new easement acquired through State right-of-way. The State will pay for any future relocation costs of these water facilities. The City will also have access to these water facilities within State right-of-way in case of an emergency main break.

**FISCAL IMPACT:**

None.

Mendes/Gardner/MS

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:01 a.m. - 10:02 a.m.)

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

- \* ITEM-108: First Amendment to Agreement with Powell/PBS&J for Water Planning/ Water Resource consulting Services.

(See memorandum from Larry Gardner dated 5/21/2003.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2003-1486)ADOPTED AS RESOLUTION R-298116

Authorizing the City Manager to execute a First Amendment to Agreement with Powell/PBS&J, for water planning and water resource consulting services;

Amending the Fiscal Year 2003 Capital Improvement Program (CIP) budget for Water Fund 41500, CIP-70-954.0, North City Reclamation System, by increasing the budget amount by \$200,000;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$200,000 from Water Fund 41500, Account 4222, Program 76880, Org. 880, to Water Fund 41500, CIP-70-954.0, North City Reclamation System;

Authorizing an additional expenditure of an amount not to exceed \$200,000 from Water Fund 41500, CIP-70-954.0, North City Reclamation System, and an additional expenditure of an amount not to exceed \$250,000 from Water Fund 41500, Program 768320, for the purpose of providing funds for the First Amendment to Agreement, thereby increasing the compensation of the original Agreement to a total amount not to exceed \$700,000, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

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

## **NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 5/28/2003, NR&C voted 5 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, Madaffer and Inzunza voted yea.)

## **SUPPORTING INFORMATION:**

On July 24, 1989, City Council adopted Ordinance O-17327 N.S. adding to the Municipal Code Article 4, Division 8, Section 64.081 et. seq. The ordinance promoted the use of recycled water. City Council also directed the City to prepare and adopt a Water Reclamation Master Plan to define, encourage, and develop the use of reclaimed water within its boundaries. The Master Plan is to be updated every five years. The most recent Master Plan was approved by the City Council in 2000. This amendment includes preparation of the 2005 Master Plan.

The Water Department selected Powell/PBS&J, through a competitive process, to prepare water reclamation assessments and preliminary plans for the projects identified in the Beneficial Reuse Study that will assist the City in meeting the 2010 EPA goal (12 million gallons of reclaimed water a day). The proposed contract amendment will complete the preliminary plans prepared under the existing contract. In addition, PBS&J will study alternatives to maximize available use of reclaimed water produced at both the North City Water Reclamation Plant and the South Bay Water Reclamation Plant. The amendment is for an amount not to exceed \$450,000, and will provide the additional engineering services using the same rate structure as in the original contract.

It is important that this work be awarded as an amendment to PBS&J's existing agreement in order to maintain their knowledge and expertise on the overall reclaimed water system in particular the engineering hydraulics. Amending their contract is critical to enabling the City to meet its commitments and realize substantial cost-savings, as described below:

EPA Goal is critical

Missed opportunities such as availability of grant funds and including pipelines in developer/public road projects will result in higher City costs

Planning efforts save substantial design and construction costs

## **FISCAL IMPACT:**

Funding for the First Amendment in the amount of \$450,000 for the engineering services is available from the Water Fund 41500.

Mendes/Gardner/VB

Aud. Cert. 2301248.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:01 a.m. - 10:02 a.m.)

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

\* ITEM-109: Apply for, Accept and Expend Caltrans Safe Routes to School Funds.

(Southeastern San Diego/Encanto Neighborhoods Community Area. District 4.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1472)ADOPTED AS RESOLUTION R-298117

Authorizing the City Manager to submit an application to the State of California for the third round of Safe Routes to Schools Program;

Authorizing the City Manager to take all necessary actions to secure funding from the State of California, for construction of bicycle and pedestrian safety and traffic safety projects;

Authorizing the City Manager to conduct all negotiations, execute and submit all documents, including but not limited to applications, agreements, amendments and payment requests which may be necessary for the completion of the project;

Authorizing the City Manager to accept, appropriate, expend and administer the grant funds in accordance with the terms and conditions set forth in the approved grant;

Authorizing the City Auditor and Comptroller to establish a special interest bearing fund for the grant;

Authorizing the City Auditor and Comptroller, contingent upon receipt of a fully executed grant agreement, to amend the fiscal year 2004 Capital Improvements Program Budget by adding CIP-52-724.0, "Sidewalks for Gompers and Horton School Areas" in the amount of \$448,200 for traffic calming and sidewalk improvements;

Authorizing the City Auditor and Comptroller, contingent upon receipt of a fully executed grant agreement, to appropriate and expend \$448,200 from grant funds for CIP-52-7240, "Sidewalks for Gompers and Horton School Areas."

**CITY MANAGER SUPPORTING INFORMATION:**

Staff has prepared a Safe Routes to School program application seeking financial support for various traffic and pedestrian related improvements that will help enhance pedestrian safety around Gompers Secondary and Horton Elementary Schools in the Encanto Neighborhoods area of the Southeastern San Diego Community Planning Area. Due to time constraints, associated with the application process, staff was unable to request Council authorization prior to June of 2002 submittal to Caltrans.

On November 8, 2002, the City was notified that the application for Gompers Secondary and Horton Elementary Schools was approved for funding in the amount of \$448,200 with an

additional requirement of \$49,800 in local matching funds anticipated to come from the School Traffic Safety Improvement Fund under the FY 2004 CIP Program.

The funds would be used for crosswalk enhancements at several critical intersections, sidewalk improvements and curb ramps. A portion of the funds would also be used for public outreach efforts including the provision of educational materials to parents of children attending both schools. The educational materials would improve parents' and children's knowledge of walkable community concepts and pedestrian safety issues.

**FISCAL IMPACT:**

Would add \$448,200 in Caltrans Safe Routes to School grant funds. Local match of \$49,800 is anticipated to come from the School Traffic Safety Improvement Fund CIP-68-017.0, FY 2004.

Ewell/Goldberg/MEP

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:01 a.m. - 10:02 a.m.)

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

\* ITEM-110: Settlement of the Property Damage Claim of the Daley Group.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1414)ADOPTED AS RESOLUTION R-298118

Authorizing the City Manager to pay the sum of \$250,000 in the settlement of each and every claim against the City, its agents and employees, resulting from the property damage claim of the Daley Group (Superior Court Case No. GIC-732583-1, The Daley Group v. City of San Diego, et al.);

Authorizing the City Auditor and Comptroller to issue one check in the amount of \$250,000, made payable to "Marks & Golia LLP Client Trust Account," 3900 Harney Street, First Floor, San Diego, California, 92110 in full settlement of said claims.

**CITY MANAGER SUPPORTING INFORMATION:**

This constitutes the complete and final settlement of the property damage claim of the Daley Group against the City of San Diego, its agents and employees, as a result of an incident which occurred in 1999.

Lexin/Lopez/LH

Aud. Cert. 2301185.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:01 a.m. - 10:02 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Fryenay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-111: Appointments and Reappointments to the Old Town San Diego Planned District Design Review Board.

(See memorandum from Mayor Murphy dated June 12, 2003 with resumes attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1495)ADOPTED AS RESOLUTION R-298119

Council confirmation of the following appointments and reappointments by the Mayor to serve as members of the Old Town Planned District Design Review Board, for terms ending as indicated:

<u>NAME</u>	<u>TERM EXPIRATION</u>	<u>CATEGORY</u>
Norman Starr (replaces Karen Spring, who resigned)	March 1, 2004	Property Owner, Resident, and Community Planning Committee member of Old Town
W. William Harvey (replaces Jack Borgos, whose term has expired)	March 1, 2007	Resident of Old Town
Olive Chivers (reappointment)	March 1, 2007	Property Owner, Resident, and Community Planning Committee member of Old Town

Cynthia Furlong  
(reappointment)

March 1, 2007

General Business

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:01 a.m. - 10:02 a.m.)

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

\* ITEM-112: Excusing Councilmember Scott Peters from the City Council Meeting of April 21, 2003.

**COUNCILMEMBER PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1284)ADOPTED AS RESOLUTION R-298120

Excusing Councilmember Scott Peters from attending the regularly scheduled Council meeting of April 21, 2003, to attend a meeting of the California Commission on Tax Policy in the New Economy in Sacramento.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:01 a.m. - 10:02 a.m.)



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

\* ITEM-113: Excusing Councilmember Michael Zucchet from the City Council Meeting of Tuesday, June 3, 2003.

**COUNCILMEMBER ZUCCHET'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1492)ADOPTED AS RESOLUTION R-298121

Excusing Councilmember Michael Zucchet from attending the regularly scheduled Council Meeting of June 3, 2003.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:01 a.m. - 10:02 a.m.)

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

\* ITEM-114: Bonnie Coggan Day.

**COUNCILMEMBER PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1482)ADOPTED AS RESOLUTION R-298122

Commending Mrs. Coggan for her outstanding efforts on behalf of La Jolla High School, Friends of Windansea, and the La Jolla community;

Proclaiming June 14, 2003 to be "Bonnie Coggan Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:01 a.m. - 10:02 a.m.)

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

\* ITEM-115: Summerquest 2003 Day.

**COUNCILMEMBER PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1493)ADOPTED AS RESOLUTION R-298123

Recognizing the sixth anniversary of Summerquest, and commending the organizers, sponsors, volunteers, and patrons for their commitment to raise much-needed funds to assist those living with HIV/AIDS;

Proclaiming June 27, 2003 to be "Summerquest 2003 Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:01 a.m. - 10:02 a.m.)

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

ITEM-150: This item regarding the Fire and Lifeguard Facilities has been returned to the City Manager to be considered at a later date to be determined.

ITEM-200: De-appropriation of TransNet Commercial Paper.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1479)                      ADOPTED AS RESOLUTION R-298124

Authorizing the City Auditor and Comptroller to de-appropriate TransNet commercial paper, Fund 30306, in the amount of \$30,483,093 for approximately 209 projects.

**CITY MANAGER SUPPORTING INFORMATION:**

As part of the Fiscal Year 2003 Final Capital Improvements Program Budget, the Mayor and City Council approved \$59.4 million in capital improvement projects funded by the TransNet Program. Of this total amount, \$26.9 million is from TransNet Sales Tax, interest, and reimbursements, and \$32.5 million is from TransNet Commercial Paper programmed from prior years and carried over as a result of our cash management process. With this process, any Commercial Paper not issued during the current fiscal year must be de-appropriated and reprogrammed in the new fiscal year. This action is merely a deferral process and by itself does not constitute a reduction in the overall Commercial Paper funding. Although the issuance of Commercial Paper is deferred, the individual project needs remain the same which necessitates the sustenance of the programmed funding. Of the \$32.5 million programmed in commercial paper, it is recommended that \$30.4 million be de-appropriated this fiscal year for approximately 209 projects. The remaining \$2.1 million will not be de-appropriated as it was issued this fiscal year.

**FISCAL IMPACT:**

There will be no fiscal impact to any of the projects as the commercial paper will be reprogrammed in Fiscal Year 2004 final budget.

Loveland/Belock/PKB

FILE LOCATION:                      MEET

COUNCIL ACTION:                      (Time duration: 11:12 a.m. - 11:12 a.m.)

MOTION BY MAIENSCHHEIN TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-250: Settlement of the Property Damage Claim of Jane Rice and Frank Rice, et al.

(R-2003-1442)

Adopted as Resolution R-298048.

A Resolution approved by the City Council in Closed Session on Tuesday, June 3, 2003, by the following vote: Peters-yea; Zucchet-yea; Atkins-yea; Lewis-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the total sum of \$149,522.67 in the settlement of each and every claim against the City, its agents and employees, resulting from the property damage to Jane Rice and Frank Rice on July 30, 2001 (Superior Court Case No. GIC-793119, Jane Rice, et al. v. City of San Diego, et al.);

Authorizing the City Auditor and Comptroller to issue two checks one made payable to Procopio, Cory, Hargreaves & Savitch, LLP, Client Trust Account, in the amount of \$72,000 and one made payable to Safeco Property and Casualty Insurance and their attorney of record, Stephen C. Rasak, in the amount of \$61,581.12 in full settlement of the lawsuit and of all claims.

Aud. Certs. 2301201 and 2301202.

ITEM-251: Settlement of Property Damage Claim of Connie Villebrun, et al.

(R-2003-1405)

Adopted as Resolution R-298044.

A Resolution approved by the City Council in Closed Session on Tuesday, June 3, 2003, by the following vote: Peters-yea; Zucchet-yea; Atkins-yea; Lewis-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the sum of \$45,299.26 in complete settlement of each and every claim against the City, its agents and employees, resulting from property damage claim of Connie Villebrun, et al. on November 6, 2002;

Authorizing the City Auditor and Comptroller to issue one check in the amount of \$45,299.26 made payable to Luth & Turley, Inc. in full settlement of all claims.

Aud. Cert. 2301184.

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

ITEM-252: Notice of Completion and Acceptance of Subdivision Improvement Agreement.

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

<u>SUBDIVISION</u>	<u>COMMUNITY AREA</u>
Carmel Valley Neighborhood 1 Unit 16	North City West
San Diego Spectrum Phase 1	Kearny Mesa
San Diego Spectrum Phase 2	Kearny Mesa

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

ITEM-330: Companion Unit Ordinance.

Matter of approving, conditionally approving, modifying, or denying the following actions: 1)Adoption of an ordinance amending Sections 141.0303 (Companion Unit Regulations), 131.0422 (Use Regulations Table for Residential Zones), 103.0105 (General Provisions for Planned Districts), 126.0303 (When a Conditional Use Permit is Required), and 126.0704 (Exemptions from a Coastal Development Permit) of the San Diego Municipal Code and Local Coastal Program to permit companion units ministerially, as required by State law, with additional changes proposed related to process, public facilities, design, parking, and occupancy, as directed by the City's adopted Housing Element.

The proposed Municipal Code amendments will be effective Citywide, including within the Coastal Zone, therefore the City Council's decision requires amending the City's Local Coastal Program. As a result, **the final decision on the proposed Municipal Code amendments will be with the California Coastal Commission.** The City of San Diego must submit this as an amendment for certification to the Coastal Commission. The amendment is not effective in the Coastal Zone until the Coastal Commission unconditionally certifies the amendment. If you wish to be noticed of the Coastal Commission hearing on this issue, you must submit a request in writing to the Planning Department, Anna Shepherd, 202 "C" Street, MS 4A, San Diego, CA 92101, before the close of the City Council public hearing. If you wish to challenge the City's action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public hearing described in this notice, or written in correspondence to the City at or before the public hearing.

(See City Manager Report CMR-03-131. Amendments to the San Diego Municipal Code and San Diego Local Coastal Program/Addendum to EIR LDR-42-0718/PTS-4109. Citywide. Districts-All.)

**CITY MANAGER'S RECOMMENDATION:**

Introduce the ordinance in Subitem A; and adopt the resolutions in Subitems B and C:

Subitem-A: (O-2003-163) CONTINUED TO MONDAY, JUNE 30, 2003

Introduction of an Ordinance amending Chapter 10, Article 3, Division 1, of the San Diego Municipal Code by amending Section 103.0105; amending Chapter 12,

Article 6, Division 3, by amending Section 126.0303; and Division 7, by amending Section 126.0704; amending Chapter 13, Article 1, Division 4, by amending Section 131.0422; and amending Chapter 14, Article 1, Division 3, by amending Section 141.0302, all relating to companion units.

Subitem-B: (R-2003-1480) CONTINUED TO MONDAY, JUNE 30, 2003

Adoption of a Resolution certifying that the information contained in Addendum to an Environmental Impact Report [EIR], LDR-42-0718 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.), that the report 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 Companion Unit Ordinance;

That the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above ordinance.

Subitem-C: (R-2003-1481) CONTINUED TO MONDAY, JUNE 30, 2003

Adoption of a Resolution authorizing the City Manager to suspend the assessment of any monetary administrative penalties authorized under Chapter One, Article Two of the San Diego Municipal Code for any code enforcement action related to companion units for a six month period commencing on the effective date of the Ordinance in Subitem A above, when adopted.

**COMMITTEE ACTION:**

Reviewed by Land Use and Housing Committee on 5/21/2003. Motion to approve the City Manager's Report with four recommendations: a) Modify the minimum square foot lot size to 5,000 square feet; b) Require quarterly reports from City staff to local planning groups regarding companion unit applications and approvals; c) Institute a grace period and waive the fees for illegally built units to obtain a permit so they may come into compliance - staff should return to the City Council with recommendations regarding the length of the grace period; and d) Direct the City's legislative staff to work with the State to address and correct concerns related to local jurisdictions' issues being usurped by State legislation. Districts 1,2, 3, 6 voted yea. District 4 voted nay.

## **OTHER RECOMMENDATIONS:**

Planning Commission on May 15, 2003, voted 7 - 0 to approve; ask the City Council to consider amnesty program; was opposition.

Ayes: Steele, Ontai, Lettieri, Schultz, Brown, Chase, Garcia

The Community Planners Committee (CPC) on April 22, 2003, voted 18-6-1 in support of the draft companion unit regulations. CPC also voted 16-7-2 to change the minimum lot size to 5,000 square feet and voted 20-5-0 to request that the Development Services Department provide quarterly reports to community planning groups on companion unit applications.

This is a matter of City-wide effect. The following community groups have taken a position on the item:

In favor: Carmel Valley, City Heights, Clairemont Mesa, San Ysidro, Serra Mesa, Torrey Hills, Torrey Pines, University City, Uptown

Opposed: Eastern, Greater Golden Hill, Normal Heights, Tierrasanta

## **CITY MANAGER SUPPORTING INFORMATION:**

### **Background**

As defined by the State of California and the San Diego Municipal Code, a companion unit is an attached or detached unit that provides complete independent living facilities and that serves as an accessory use to a primary single dwelling unit. Companion units differ from guest quarters, which do not provide independent living facilities (i.e., the San Diego Municipal Code does not permit kitchens in guest quarters).

### **State Legislation**

In 1982, the State enacted legislation that requires jurisdictions in California, including charter cities, to either adopt local ordinances or use the State model ordinance to permit companion unit development. The legislation was based on finding that companion units are a potential source of affordable housing, that there is unmet need for new housing in California, that companion units are a cost effective means to provide housing without public subsidy, that they generate



additional income for homeowners (thus improving their own housing affordability), and that companion units provide other non-economic benefits such as security and the ability to house elderly family members.

In 1994, the Legislature amended the statute to specify that “any second-unit ordinances adopted by local agencies should have the effect of providing for the creation of second units,” and that provisions of such ordinances “are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create second units in zones in which they are authorized by local ordinance.” In 2002, the Legislature further refined the requirements for local companion unit ordinances through Assembly Bill 1866 (AB 1866). AB 1866 (see Attachment 2) requires jurisdictions to permit companion units ministerially, without discretionary review or public hearing, and to prohibit restrictions that arbitrarily preclude companion units unless specific findings regarding public safety and welfare are made. AB 1866 also provides that local ordinances may not preclude companion units in single family or multi-family zones, unless doing so would limit housing opportunities. Jurisdictions must review applications for companion units ministerially beginning July 1, 2003, or be in the process of adopting an ordinance within 120 days after July 1, 2003.

**FISCAL IMPACT:** None.

Ewell/Goldberg

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:23 a.m. - 12:01 p.m.;  
2:11 p.m. - 3:24 p.m.)

Testimony in opposition by Jarvis Ross, Carol Haulat, Mignon Scherer, and Cynthia Conger.

Testimony in favor by Lynne Baker, Kenneth Kozachenko, Steve Laub, and Tracy

Morgan Hollin

MOTION BY MAIENSCHIN TO CONTINUE TO MONDAY, JUNE 30, 2003, WITH DIRECTION TO STAFF TO COME BACK TO COUNCIL WITH A REVISION OF THE ORDINANCE THAT WOULD INTERPRET THE “MOST RESTRICTIVE” REGULATIONS ALLOWED UNDER STATE LAW. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-S500: Grant Application to Coastal Conservancy for Ocean Beach Pier Structural Survey.

(Ocean Beach Community Area. District-2.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1500)ADOPTED AS RESOLUTION R-298125

Authorizing the City Manager to apply to the California State Coastal Conservancy (CSCC) for a grant in the amount of \$125,000, to perform a structural integrity survey of the Ocean Beach Fishing Pier;

Authorizing the City Manager to take all necessary actions to secure, accept, and expend grant funds from the CSCC for a structural integrity survey of the Ocean Beach Fishing Pier, including entering into and executing a grant funding agreement;

Authorizing the City Auditor and Comptroller to establish a special interest-bearing fund for the grant, if secured;

Authorizing the City Auditor and Comptroller to reprogram \$80,000 from the Ocean Beach Pier Concessions Revenue Fund No. 10575 to CIP-29-675.0;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend funds, if the grant is secured;

Authorizing the City Auditor and Comptroller, upon receipt of a fully executed grant agreement, to increase the Fiscal Year 2003 Capital Improvements Program Budget by adding CIP-29-675.0, Ocean Beach Fishing Pier Structural Survey, in the amount of \$205,000;

Authorizing the City Auditor and Comptroller, upon receipt of a fully executed grant agreement, to appropriate and expend \$205,000 from CIP-29-675.0, Ocean Beach Fishing Pier Structural Survey, contingent upon receipt of a fully executed grant agreement.

**CITY MANAGER SUPPORTING INFORMATION:**

The California State Coastal Conservancy considers public access to shoreline, beaches and piers among its highest funding priorities, and manages grant funds for projects carried out by local governments and non-profit organizations that increase the public's access to, and enjoyment of, the coast. The Conservancy grant program funds such projects as public access ways, trails, stairs, and piers along the coast.

This action authorizes the City Manager to submit a grant proposal to the California State Coastal Conservancy for a structural integrity survey of the Ocean Beach Fishing Pier in the Ocean Beach community. The pier was built in 1966 and extends 2,510 feet into the Pacific Ocean. The life expectancy of the structure was 50 years, and over the years the pier has sustained the force of wave impacts from seasonal storms and high winds. The pier has been exposed to strong storms and wave action in the last 15 years and, as a result, has experienced many pier closings due to public safety issues.

The structural survey will inspect the pier above and below the waterline to determine its stability and provide engineering recommendations for pier improvements. Structural repairs and improvements were made in 1989 using recommendations from a 1988 survey, the last survey of this type to be performed on the pier.

**FISCAL IMPACT:**

The total cost of this project is \$205,000. If the grant is secured, the City will receive \$125,000 from the California State Coastal Conservancy and contribute \$80,000 from the Ocean Beach

Pier Concessions Revenue Fund No. 10575, which can only be used for improvements to the pier.

Herring/Oppenheim/AP

Aud. Cert. 2301278.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:12 a.m. - 11:12 a.m.)

MOTION BY ZUCCHET TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy 3:24 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 3:24 p.m.)