

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, OCTOBER 13, 2003  
AT 2:00 P.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 2:09 p.m. Mayor Murphy acknowledged and welcomed Manager of the San Diego Padres, Bruce Bochy. Mayor Murphy recessed the meeting at 3:34 p.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 3:46 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 5:34 p.m. for the purpose of a break. The meeting was reconvened at 5:46 p.m. with Council Member Inzunza not present. Mayor Murphy adjourned the meeting at 6:28 p.m.

**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/Maland/Lane (mc)

**FILE LOCATION: MINUTES**

ITEM-1: 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

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Rabbi Ted Riter of Temple Solel.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Inzunza.

FILE LOCATION: MINUTES

ITEM-30: Approval of Council Minutes.

**TODAY'S ACTION IS: APPROVED**

Approval of Council Minutes for the meetings of:

09/15/2003  
09/22/2003  
09/23/2003

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:12 p.m. – 2:12 p.m.)

MOTION BY ATKINS TO APPROVE. 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-31: Arts and Humanities Month.

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-388 Cor. Copy) ADOPTED AS RESOLUTION R-298452

Recognizing the importance of the arts and humanities, and urging our citizens to take part in the efforts to celebrate and promote the arts and culture in our community and our nation;

Proclaiming October 2003 to be “Arts and Humanities Month” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:19 p.m.)

MOTION BY INZUNZA 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-32: Dr. Don Bacigalupi Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2004-312) ADOPTED AS RESOLUTION R-298453

Recognizing Dr. Don Bacigalupi for his outstanding achievements at the Museum of Art, and heartily congratulating him on his new position;

Proclaiming October 13, 2003 to be "Dr. Don Bacigalupi Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:26 p.m.)

MOTION BY ATKINS 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-33: Jim Brown Day.

(Continued from the meeting of September 29, 2003, Item 32, at the request of Councilmember Madaffer, to allow Jim Brown to be present.)

**COUNCILMEMBER MADAFFER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-205) ADOPTED AS AMENDED AS RESOLUTION R-298454

Commending Jim Brown for providing the City of San Diego with an excellent program manager for 29 years;

Proclaiming September 29, 2003 to be "Jim Brown Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:26 p.m. – 2:37 p.m.)

MOTION BY MADAFFER TO ADOPT THE RESOLUTION AS AMENDED TO PROCLAIM OCTOBER 13, 2003 TO BE “JIM BROWN DAY.” Second by Peters. Passed by the following vote: 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-34: Recognition and Presentation of the Proclamation for the Supporters of Camp Hope, a Project of the San Diego Family Justice Center.

**CITY ATTORNEY’S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-383) ADOPTED AS RESOLUTION R-298455

Commending Greystone Homes, EDCO Disposal Corporation, On the Edge Water Sports, Water Department Director Larry Gardner, Cox Communications, and Metabolife for making possible one of the most exciting camping opportunities in America for the hurting children and families;

Proclaiming October 13, 2003 to be “Camp Hope Friends Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:37 p.m. – 2:47 p.m.)

MOTION BY PETERS TO ADOPT. Second by Atkins. 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-50: Establishing a 100-Foot Driveway Parking Permit Zone for Firehouse Museum, West Side on Columbia Street.

(Centre City Community Area. District-2.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 9/22/2003 (Council voted 9-0):

(O-2004-19) ADOPTED AS ORDINANCE O-19228 (New Series)

Establishing a 100-foot driveway parking permit zone for the Firehouse Museum located at 1542 Columbia Street;

Authorizing the installation of the necessary signs and markings to be made on said street, and the regulations herein above imposed shall become effective upon the installation of such signs.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. 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-51: Two actions related to Amendment to the Mission Trails Design District Ordinance.

(Tierrasanta, Navajo, and East Elliot Community Areas. District-7.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinances which were introduced on 9/23/2003 (Council voted 8-0. Councilmember Inzunza not present.):

Subitem-A: (O-2004-21) ADOPTED AS ORDINANCE O-19221 (New Series)

Amending Chapter 13, Article 2, Division 12, of the San Diego Municipal Code, by amending Sections 132.1202 and 132.1205, pertaining to the Mission Trails Design District Overlay Zone.

Subitem-B: (O-2004-20) ADOPTED AS ORDINANCE O-19222 (New Series)

Incorporating and deleting property located in the City of San Diego from the Mission Trails Design District Ordinance as defined in Chapter 13, Article 2, Division 12, of the San Diego Municipal Code and the Mission Trails Design District.

FILE LOCATION: Subitems A & B: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCES. 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-52: Exempting a Program Manager Position from the Classified Service for City Attorney's Office.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 9/22/2003 (Council voted 9-0):

(O-2004-31) ADOPTED AS ORDINANCE O-19223 (New Series)

Exempting the position of Program Manager from the classified service and declaring it to be in the unclassified service of the City of San Diego.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. 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-53: Formation of a Sustainable Energy Advisory Board.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 9/23/2003 (Council voted 8-0. Councilmember Inzunza not present.):

(O-2004-22) ADOPTED AS ORDINANCE O-19224 (New Series)

Amending Chapter 2, Article 6, of the San Diego Municipal Code by amending Section 26.04 renaming the Energy Advisory Board the Sustainable Energy Advisory Board and adding provisions relating to renewable energy goals and board appointments.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. 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-54: Rancho Peñasquitos Skate Park Rezoning.

(Rancho Peñasquitos Community Plan Area. District-1.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 9/23/2003 (Council voted 9-0):

(O-2004-30) ADOPTED AS ORDINANCE O-19225 (New Series)

Rezoning 1.01 acres, located at 10024 Carmel Mountain Road, in the Rancho Peñasquitos Community Plan Area, in the City of San Diego, California, from the CP-1-1 zone to the OP-1-1 zone, as defined by San Diego Municipal Code Sections 131.0202 and 131.0506.

FILE LOCATION: LUP – Rancho Penasquitos State Park, 09/23/03 (65)

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. 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-55: Central Police Facility Rezoning.

(City Heights Neighborhood/Mid-City Community Plan Area. District-3.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 9/23/2003 (Council voted 9-0):

(O-2004-13) ADOPTED AS ORDINANCE O-19226 (New Series)

Rezoning 6.0 acres, located at a portion of 4008 Federal Boulevard, in the Mid-City Community Plan Area, in the City of San Diego, California, from the RS-1-7 zone (Previously referred to as the R1-5000 zone) to the OR-1-1 zone, as defined by San Diego Municipal Code Section 131.0204.

FILE LOCATION: LUP – Central Police Facility, 08/05/03 (65)

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. 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-56: Office Space Lease Amendment – 600 B Street, 14th and 22nd Floor.

(Centre City Community Area. District-2.)

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2004-33) INTRODUCED, TO BE ADOPTED, MONDAY,  
OCTOBER 27, 2003

Introduction of an Ordinance authorizing the City Manager to execute a Seventh Amendment to Office Lease with 400 West Broadway, LLC., for the lease of approximately 5,962 square feet, for a total monthly rental rate of \$10,135.40, for a term of approximately 10 years, under the terms and conditions set forth in that Seventh Amendment to Office Lease Agreement;

Declaring that there will be no additional financial impact on the City caused by this Ordinance. The lease costs for this additional space was already budgeted under Fund 41300 in the FY04 Office Space Program Budget in DE number 2400019.

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

**CITY MANAGER'S SUPPORTING INFORMATION:**

The Wastewater Review Division of Development Services was originally located on the 3rd floor of 600 B Street. They were relocated to the 14th and 22nd floor of 600 B Street to

accommodate the requirements of the City's child care facility that was built-out on the entire 3rd floor. Wastewater Review has been occupying the new premises under a month to month agreement. Recently the landlord has provided consent to add Wastewater's space to the City's Master Lease. The basic terms are as follows;

TERM – Approximately 10 years with a lease expiration date of May 31, 2013.

RENT - \$1.70 per square foot or \$10,135.40 per month as per the City's Master Lease for 600 B Street. This rental rate is below market as compared to similar space in the downtown core.

USE – General office use.

SIZE – Approximately 5,962 rentable square feet.

TENANT IMPROVEMENTS – The Landlord refurbished the premises at the Landlord's sole cost and expense. The refurbishment cost was approximately \$36,000.

**FISCAL IMPACT:**

No additional impact. The lease costs were already budgeted under Fund 41300 in the FY04 Office Space Program Budget in DE number 2400019.

Herring/Griffith/DLM

FILE LOCATION: NONE.

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

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

\* ITEM-100: Inviting Bids and Award of Contract for the Construction of Lexington Trunk Sewer.

(See memorandum from Scott Tulloch dated 7/23/2003. City Heights Planning Community Area. District-3.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-24) ADOPTED AS RESOLUTION R-298456

Approving the plans and specifications for the construction of Lexington Trunk Sewer (Project) on Work Order No. 177031;

Authorizing the City Manager, after advertising for bids in accordance with law, to establish contract funding phases and to award the Project contract to the lowest responsible and reliable bidder in an amount not to exceed \$2,854,000, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$2,854,000 from Sewer Fund 41506, CIP-40-933.0, Annual Allocation MWW Trunk Sewers, of which \$2,460,000 is for construction, \$271,000 is for related costs, and \$123,000 is for contingency, for the purpose of providing funds for the Project and related costs as follows:

Phase I: An amount not to exceed \$1,021,000 from FY 2004 appropriations provided that the City Auditor and Comptroller first furnishes a certificate certifying that the funds necessary for expenditure are, or will be, on deposit in the Treasury.

Phase II: An amount not to exceed \$1,833,000 from FY 2005 appropriations, contingent upon the passage of the FY 2005 Capital Improvement Program Budget, and provided that the City Auditor and Comptroller first furnishes a certificate certifying that the funds necessary for expenditure are, or will be, on deposit in the City Treasury.

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K041594C)

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

On 7/30/2003 NR&C voted 5 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

**SUPPORTING INFORMATION:**

This project is a part of the City of San Diego's ongoing program to rehabilitate and upgrade trunk sewers which are approaching their peak flow capacities.

The existing Lexington Canyon Trunk Sewer has reached its maximum capacity, and there is a potential risk of overflow in the canyon. In compliance with Council Policy 400-13/14, a redirection of flow study and Cost Benefit Analysis of alternatives was prepared. It was determined that the partial redirection of flow away from the existing canyon sewer was the most appropriate alternative. To prevent future spills, it is required to build 4,413 feet of 18 inch trunk sewer from the intersection of Dwight Street and Chamoune Avenue to the Home Avenue trunk sewer.

This proposed trunk sewer will carry most of the flow away from the existing Lexington Canyon Trunk Sewer. However, approximately 4,000 feet of the existing 15 inch sewer in the canyon will remain in service. The City Heights Area Planning Community and the Menlo Park Home Owners Association reviewed and approved the project after soliciting the community's input. An access maintenance path for the existing trunk sewer is being prepared under a separate contract.

**FISCAL IMPACT:**

The total estimated cost of this project is \$2,854,000. This project is scheduled to be phase funded over FY 2004 to FY 2005. Funds of \$2,854,000 of which \$1,021,000 is for Phase I (FY 2004) are available in Sewer Fund 41506, CIP-40-933.0 Annual Allocation -Trunk Sewer Rehabilitations.

Mendes/Tulloch/MM

FILE LOCATION: CONT – Cass Construction, Inc.; W.O. 177031

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

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

\* ITEM-101: Acceptance of Funding to Assist California Highway Patrol in Traffic Safety Activities.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-375) ADOPTED AS RESOLUTION R-298457

Authorizing the Chief of Police to enter into Letters of Agreement and Memoranda of Understanding on an ad hoc basis for the purpose of participating in CHP traffic safety operations, and invoicing, receiving reimbursement, and expending funds for said participation;

Declaring that such authorization shall include all aspects of project participation, operation, contracts, expenditures, and certifications, and that the City will comply with all applicable statutory and/or regulatory requirements related to these operations;

Declaring that grant funds and/or resources received hereunder shall not be used to supplant expenditures controlled by this body.

**CITY MANAGER SUPPORTING INFORMATION:**

From time to time, the California Highway Patrol (CHP) conducts special traffic safety operations and requests the participation of San Diego Police Department staff. These are most often DUI, safety belt and child safety seat, drag racing, and similar education and enforcement activities. These operations may be funded by grants or other sources from which CHP reimburses SDPD for hourly participation, and other incidental expenses incurred.

CHP requires a resolution from the City of San Diego governing body authorizing the Chief of Police to enter into Letters of Agreement, Memoranda of Understanding, and other instruments

pertaining to reimbursement for participation in these operations. The purpose of this Resolution is to authorize the Chief of Police, on behalf of the San Diego City Council, to enter into these agreements and invoice CHP for reimbursement.

Please note: There are NO applications associated with the acceptance of these funds. Letters of Agreement and Memoranda of Understanding shall be entered into by the Chief of Police on an ad hoc basis.

**FISCAL IMPACT:**

There is no requirement for matching funds, and no requirement to continue activities, participation or expenditures in the absence of CHP reimbursement.

Uberuaga/Welter/DJW.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-102: Lease Agreement with State of California, Department of Transportation, to Operate and Maintain the Existing Park-and-Ride Parking Structure.

(Carmel Mountain Ranch Community Area. District-5.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-330) ADOPTED AS RESOLUTION R-298458

Authorizing the City Manager to execute a 10-year lease agreement with State of California, Department of Transportation, to operate and maintain the existing

Park-and-Ride parking structure at 10155 Rancho Carmel Drive, for \$1 per year and in consideration of its use in the Park-and-Ride program, on the terms and conditions set forth in the Lease Agreement.

**CITY MANAGER SUPPORTING INFORMATION:**

Since 1994, Caltrans has leased and operated the City-owned parking structure at the corner of Rancho Carmel Drive and Provençal Place. The structure is 2-story, has 70 parking spaces, and is part of the Caltrans Park-and-Ride program. The structure is open 24 hours per day at no charge to members of the public traveling in car pools and other ride-sharing vehicles.

The existing agreement between the City and Caltrans has expired and is now on holdover. The proposed new lease has a term of 10 years at \$1 per year rent. As in the past, Caltrans will maintain the parking structure and carry public liability and fire insurance at its expense. The current value of this City-owned site is estimated by City staff to be \$423,500.

**FISCAL IMPACT:**

\$1 per year nominal rent.

Herring/Griffith/PTC

**FILE LOCATION:** LEAS – CALIFORNIA (State of California, Department of Transportation)

**COUNCIL ACTION:** (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-103: Funding for Legal Services of Luce Forward Hamilton & Scripps Regarding Gleason v. SDCERS, et. al.

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-331) ADOPTED AS RESOLUTION R-298459

Authorizing the City Attorney to execute an amendment to the Fee Agreement with Luce Forward, for an additional amount not to exceed \$250,000 for a total contract amount not to exceed \$500,000.

Aud. Cert. 2400362.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-104: Bayshore Bikeway Fund Transfer.

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

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-328) ADOPTED AS RESOLUTION R-298460

Authorizing the City Auditor and Comptroller to amend the Capital Improvement Project (CIP) budget to increase CIP-58-140.0, Bayshore Bikeway, Fund No. 390055, LTF – SANDAG Claim 228 (FY 92), by the amount of \$50,000;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$50,000 from Job Order 000100, Bay Route Bikeway Environmental Impact Study, to CIP-58-140.0, Bayshore Bikeway, Fund No. 390055, LTF – SANDAG Claim 228 (FY92);

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$50,000 from Fund No. 390055, CIP-58-140.0, Bayshore Bikeway, for the purpose of completing the Environmental Document for the Bayshore Bikeway.

**CITY MANAGER SUPPORTING INFORMATION:**

The Bayshore Bikeway is a multi-agency project to provide a Class I bicycle path around San Diego Bay from Point Loma to Coronado. The portion of the Bayshore Bikeway within the Otay Mesa-Nestor community will complete the missing segment at the southeast corner of San Diego Bay, from 13<sup>th</sup> Street at the Imperial Beach City Limit to Main Street at the Chula Vista City Limit. Currently, the project is in the design stage, and the appropriate environmental document is being prepared.

Funding for the design for the Bayshore Bikeway in the amount of \$350,000 has been budgeted in CIP-58-140.0. An additional \$50,000 that had been budgeted for the preparation of the environmental document for the project remains in Job Order 000100.

This action will transfer the unused funds from the environmental document job order to the CIP for design/environmental document preparation for the project. SANDAG staff is in concurrence with this fund transfer.

**FISCAL IMPACT:**

\$50,000 to be transferred from Job Order 000100 to CIP-58-140.0 for a total project cost to date of \$400,000.

Loveland/Belock/PB

Aud. Cert. 2400303.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-105: Second Amendment to Agreement with Hilton, Farnkopf & Hobson, LLC for Consulting Services.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-377) ADOPTED AS RESOLUTION R-298461

Authorizing the City Manager to execute a second amendment to the agreement of September 7, 1999, with Hilton, Farnkopf & Hobson, LLC for consulting services, under the terms and conditions set forth in the Second Amendment;

Authorizing the expenditure of an amount not to exceed \$125,000 from CIP-37-255.0, exclusively for the purpose of providing funds for the above Second Amendment to the Agreement;

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

**CITY MANAGER SUPPORTING INFORMATION:**

The Environmental Services Department has an existing agreement with Hilton, Farnkopf & Hobson for solid waste related professional consulting services to ensure cost-effective programs and to support the Department's long term solid waste planning efforts. In October 2002, Environmental Services Department amended the original agreement to increase the available funds by \$99,000 for additional solid waste consultant services, bringing the contract total to \$249,000. This second amendment proposes additional funds in the amount of \$125,000. The second amendment will increase the total appropriated amount to \$374,000.

**FISCAL IMPACT:**

The proposed amendment to the Agreement provides additional funds in the amount of \$125,000. Funds for this purpose are available in Fund 30244.

Mendez/Hayes/LW

Aud. Cert. 2400354.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-106: Amendment to Agreement with Procopio Cory Hargreaves & Savitch Regarding the Renegotiation Provisions of the 1995 Agreement for the Partial Use and Occupancy of Qualcomm Stadium Between the City and the San Diego Chargers.

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-349) ADOPTED AS RESOLUTION R-298462

Authorizing the City Attorney to execute an amendment to the retention agreement with Procopio Cory Hargreaves & Savitch LLP for an additional amount not to exceed \$300,000, for a total contract amount not to exceed \$800,000.

**SUPPORTING INFORMATION:**

This action will amend the existing agreement between the City of San Diego and Procopio Cory Hargreaves & Savitch for legal services related to the renegotiation provisions of the 1995 Agreement for the Partial Use and Occupancy of Qualcomm Stadium between the City and the San Diego Chargers (Agreement). An initial contract amount, not to exceed \$100,000 was authorized by the City Manager in early March, and additional amounts, not to exceed another \$400,000 were authorized by the City Council in Resolution Nos. R-297734 and R-298220. The total amount authorized to date has proved insufficient due to the level of required services from the firm now and in the future. An additional amount not to exceed \$300,000 is now necessary and appropriate to continue providing the necessary legal services relating to the Agreement. The proposed amendment will bring the total contract to an amount not to exceed \$800,000.

Herring/Girard

Aud. Cert. 2400326.

FILE LOCATION: MEET (61)

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-107: Consultant Agreement with Boyle Engineering Corporation for Otay Second Pipeline – North Encanto Replacement.

(See memorandum from Larry Gardner dated 7/8/2003. Encanto and Southeastern San Diego Community Areas. District-4.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2003-381) ADOPTED AS RESOLUTION R-298463

Authorizing the City Manager to execute a Consultant Agreement with Boyle Engineering Corporation, for the purpose of providing design and construction support services for the Otay Second Pipeline Improvements – North Encanto Replacement (Project);

Authorizing the expenditure of an amount not to exceed \$717,512 from Water Fund 41500, CIP-73-286.0, Otay Second Pipeline Improvements (North Encanto Replacement Phase, Sub CIP-73-286.8), for the purpose of providing funds for the above agreement and related in-house engineering costs.

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 7/16/2003, NR&C voted 3 to 0 to approve. (Councilmembers Zucchet, Frye, and Madaffer voted yea. Councilmembers Lewis and Inzunza not present.)

**SUPPORTING INFORMATION:**

The Otay Second Pipeline was constructed in 1930 to transport Otay Water Treatment Plant water to the University Heights Reservoir. In 1989, due to the age of the pipe and its apparent lack of capacity, the Water Department initiated a capital improvement project for the replacement/rehabilitation of the entire Otay Second Pipeline alignment. In 1995, the project scope was reduced and broken into two phases: the first was to install approximately 30,000 lineal feet between Telegraph Canyon and State Highway 54 and the second was to install approximately 6,725 lineal feet north of State Highway 94. In 1997, a Value Engineering review was conducted to evaluate the scope of work of the Otay Second Pipeline.

After thorough studies and investigations of the entire alignment, a corrosion study final report dated November 2000 concluded that the majority of the Otay Second Pipeline was in good condition and not in need of replacement. However, one location at the intersection of Upland Street and Weaver Street proved to be an anomaly with the pipeline severely corroded. The critical segment was determined to be from the 65<sup>th</sup> & Herrick Pump Station to the intersection of Tooley and 60<sup>th</sup> Street. Rehabilitation or replacement of this critical segment of the pipeline is ultimately recommended.

North Encanto Replacement project is one of the eight phases included in the Program Environmental Impact Report (PEIR) which addresses the potential environmental impacts resulting from, or related to, construction and operation of the proposed Otay Second Pipeline Improvements Project. This project involves replacing existing pipeline segments, installing cathodic protection to existing and proposed pipelines, extension of pipelines, and construction of additional facilities to maintain a safe reliable source of potable water and to ensure efficiency of the distribution system which is the City of San Diego's Water Department objective.

North Encanto Replacement Project will replace a total of 7,783 lineal ft. of the existing 36" Otay 2<sup>nd</sup> pipeline with the 42", tape wrapped, cement mortar coated & lined welded steel pipe.

The City's as-needed consultant process was used to interview the most qualified consultants. Six firms were interviewed and resulted in the selection of Boyle Engineering Corporation as the

most qualified firm to provide the required professional services. Boyle Engineering Corporation is familiar with the City's water system and has experience providing design and construction support for pipeline projects.

**FISCAL IMPACT:**

Funding for the engineering consultant and related in-house engineering costs in the amount of \$717,512 is available from Water Fund 41500, CIP-73-286.0, Otay Second Pipeline Improvements (CIP-73-286.8, North Encanto Replacement).

Mendes/Gardner/MML

Aud. Cert. 2400359.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-108: Spousal Abuser Prosecution Program Grant.

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-380) ADOPTED AS RESOLUTION R-298464

Authorizing the City Attorney to apply for, accept and expend a \$59,395 Spousal Abuser Prosecution Program (SAPP) Grant from the State of California Department of Justice under the terms and conditions outlined in the letter to Gael Strack, Assistant City Attorney, from Attorney Bill Lockyer;

Declaring that the City of San Diego agrees to hold the Department of Justice and the State of California harmless from any liability arising out of the performance of the grant agreement, including court actions or damages, and certifying that the City will not use the grant to supplant local expenditures.

**SUPPORTING INFORMATION:**

On November 13, 1994, the City Attorney's Child Abuse/Domestic Violence Unit received notification that they had been awarded a \$60,000 grant from the California Department of Justice for the prosecution of domestic violence cases. Over the past nine years, the Unit received continued funding which was used to enhance the advocacy and investigative efforts of the Unit. Fiscal Year 2004 marks the tenth year that the Unit has been awarded funding under the Spousal Abuser Prosecution Program. For Fiscal Year 2004, \$59,395 has been awarded with a 20 % match requirement which will be met through existing staff salaries.

This grant award is contingent upon City Council approval. The proposed resolution authorizes the City Attorney to apply for and enter into a grant agreement with the Department of Justice. It also indemnifies the Department of Justice from any civil suits which may arise from the City Attorney's use of funds and certifies that the City will not use grant funds to supplant local expenditures.

Gwinn/Foster/CC

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-109: SDG&E Easement Grants and Quit Claim of Easement – Riford La Jolla Library and Rolando/College Library.

(La Jolla and Rolando/College Community Areas. Districts-1 & 7.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-384 Cor.Copy) ADOPTED AS RESOLUTION R-298465

Authorizing the City Manager to execute a deed conveying to San Diego Gas & Electric Company, an easement for the purpose of constructing and installing underground facilities and appurtenances for the transmission and distribution of electricity and related purposes, affecting a portion of Lots 5 and 6 in block 10 of La Jolla Park, according to Map No. 352;

Authorizing the City Manager to accept a Quitclaim Deed, executed by San Diego Gas & Electric Company, conveying back to the City the abandoned easement;

Authorizing the City Manager to execute a deed conveying to San Diego Gas & Electric Company, an easement for the purpose of constructing and installing underground facilities and appurtenances for the transmission and distribution of electricity and related purposes, affecting that portion of Lot 1 of College Vista, according to Map No. 3226.

**CITY MANAGER SUPPORTING INFORMATION:**

(1) Florence Riford La Jolla Library (APN 350-452-03) - In early January 2003, the City was notified that construction at the La Jolla Library had stopped, because a transformer and concrete pad, with appurtenances belonging to SDG&E were in the way of the library remodeling project. On January 30, 2003, the City issued a Temporary Right of Entry Permit to SDG&E so that it could relocate the utility improvements to an adjacent area at the Library, until a new easement could be processed to replace the permit and abandon the existing easement permit.

(2) New College/Rolando Library (APN 468-120-06) - This easement to SDG&E is necessary to provide electrical service to the new College/Rolando Library planned for construction on Montezuma Drive at Reservoir Drive, in San Diego. The easement (37'x 16') is to erect, construct, modify, improve, reconstruct, repair, and maintain underground facilities and appurtenances for the transmission and distribution of electricity and related purposes. This easement solely benefits the City.

DISCUSSION: This action is requesting Council authorization for (1) City to grant two new easements to SDG&E to provide utilities to the two libraries and (2) City to accept a quit claim of easement from SDG&E for the abandoned easement at Florence Riford La Jolla Library.

**FISCAL IMPACT:**

None. The City is not recommending compensation for these easements, because the first easement is an exchange of easements of comparable value, at City's request, and the second easement exclusively serves City-owned property, which makes this easement exempt from a fee, pursuant to AR 23.30-2.

Herring/Griffith/DLD

FILE LOCATION: DEED – F-9615

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-110: Nomination to the Centre City Development Corporation (CCDC ) Board of Directors.

(See memorandum from Mayor Murphy dated 9/24/2003.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-394) ADOPTED AS RESOLUTION R-298466

Nominating for election to the Centre City Development Corporation Board of Directors in the category of Finance for a term ending May 1, 2005, replacing Reese A. Jarrett, who resigned:

NOMINEE

Robert A. McNeely

NOMINATED BY

Mayor Dick Murphy

FILE LOCATION:

MEET

COUNCIL ACTION:

(Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS TO ADOPT, CONFIRMING THE APPOINTMENTS. 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-111: Appointment to the Public Facilities Financing Authority.

(See memorandum from Mayor Murphy dated 10/2/2003, with resume attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-396) ADOPTED AS RESOLUTION R-298467

Council confirmation of the appointment by the Mayor of Cheryl D. Kendrick to serve as a member of the Board of Commissions of the Public Facilities Financing Authority and shall serve at the pleasure of the City Council and the Redevelopment Agency (Agency) of the City of San Diego and may be removed at any time, with or without cause, at the sole discretion of the City Council and the Agency, replacing Samuel Brown, who has resigned.

FILE LOCATION:

MEET

COUNCIL ACTION:

(Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-112: Excusing Councilmember Zucchet from Natural Resources and Culture Committee Meeting of September 24, 2003.

**COUNCILMEMBER ZUCCHET'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-368) ADOPTED AS RESOLUTION R-298468

Excusing Councilmember Zucchet from attending the Committee on Natural Resources and Culture meeting of September 24, 2003.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-113: Work and Family Month.

**COUNCILMEMBER ZUCCHET'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-379) ADOPTED AS RESOLUTION R-298469

Recognizing Work and Family Month in the City of San Diego and thanking the San Diego Work-Life Coalition for its efforts to provide a more satisfied, healthy workforce where employees will be able to excel in both their work and personal lives and heartily congratulating National Work-Life and the working community;

Recognizing the month of October as "Work and Family Month" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-114: OUTFEST San Diego Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2004-369) ADOPTED AS RESOLUTION R-298470

Recognizing OUTFEST San Diego, its co-directors Joseph Ferrelli and Krista Page, co-chairmen Dean McConkey and Ivan Solis, as well as the network of OUTFEST volunteers for their commitment and dedication to community enlightenment, education, and entertainment;

Proclaiming September 25, 2003 to be "OUTFEST San Diego Day" in the City of San Diego in recognition of the dynamic role of OUTFEST in San Diego's LGBT community.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-115: San Diego Volunteer Lawyer Program 20<sup>th</sup> Anniversary Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2004-385) ADOPTED AS RESOLUTION R-298471

Recognizing the 20<sup>th</sup> anniversary of the San Diego Volunteer Program, and commending its board of directors, staff, pro bono law firms, lawyers, law students, and its financial supporters and contributors for 20 years of outstanding service to the community and are encouraged to continue to meet the important legal needs of the indigent community in San Diego County in the years to come;

Proclaiming October 1, 2003 to be "San Diego Volunteer Lawyer Program 20<sup>th</sup> Anniversary Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

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

\* ITEM-116: AIDS Walk San Diego Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2004-363) ADOPTED AS RESOLUTION R-298472

Commending the staff, board members, volunteers, sponsors and participants of AIDS Walk San Diego for their outstanding service, leadership, commitment and generosity to those living with HIV/AIDS, and encouraging all San Diegans to participate in AIDS Walk San Diego by volunteering, walking, running, or making a donation;

Proclaiming October 5, 2003, to be "AIDS Walk San Diego Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-117: Seven actions related to Authorizing Suggestion Awards to City Employees.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2004-352) ADOPTED AS RESOLUTION R-298473

Joaquin S. Andres - General Services Department - Equipment Division - \$500

Subitem-B: (R-2004-353) ADOPTED AS RESOLUTION R-298474

Yildiz Chambers - Metropolitan Wastewater Department - \$500

Subitem-C: (R-2004-354) ADOPTED AS RESOLUTION R-298475

Michael Hook – Transportation/Streets Department - \$400.54

Subitem-D: (R-2004-355) ADOPTED AS RESOLUTION R-298476

Gary M. Lane, Sr. - Metropolitan Wastewater Department - \$500

Subitem-E: (R-2004-356) ADOPTED AS RESOLUTION R-298477

Larry Schweihs - Metropolitan Wastewater Department - \$50

Subitem-F: (R-2004-361) ADOPTED AS RESOLUTION R-298478

Michael Sloneker - Police Department - \$175

Subitem G: (R-2004-362) ADOPTED AS RESOLUTION R-298479

Steven P. Vandewalle – Fire Rescue Department - \$160

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS TO ADOPT THE RESOLUTIONS. 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-118: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District-8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-28) ADOPTED AS RESOLUTION R-298480

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L – State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-119: Declaring a Continued State of Emergency Due to Economic Circumstances in the San Diego-Tijuana Border Region.

(District-8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-170) ADOPTED AS RESOLUTION R-298481

Declaring a Continued State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

FILE LOCATION: GEN'L – State of Emergency Due to Economic Circumstances in the San Diego-Tijuana Border Region

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-120: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-122) ADOPTED AS RESOLUTION R-298482

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

**CITY MANAGER'S SUPPORTING INFORMATION:**

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical

local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

FILE LOCATION: GEN'L – Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV)

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

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

\* ITEM-121: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-316) ADOPTED AS RESOLUTION R-298483

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L – State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-200: Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8:

**HEARING HELD, REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 14, 2003.**

Property: Qualcomm Stadium

Agency Negotiator: Assistant City Attorney Leslie J. Girard, Deputy City Manager Bruce Herring, Paul Jacobs, Esq., Daniel S. Barrett and Robert Kheel.

Negotiating Parties: City of San Diego and the San Diego Chargers.

Under Negotiation: Real Property Interests at the Qualcomm Stadium site pursuant to the recommendations of the Citizens Task Force on Chargers Issues, and pursuant to the terms of Paragraph 31 of the 1995 Agreement for the Partial Use and Occupancy of Qualcomm Stadium.

Prior to Council discussion in Closed Session and in compliance with the Brown Act (California Government Code Section 54956.8), this item is listed on the docket **only** for public testimony.

**There is no Council discussion of this item. The City Council's actions are:**

- 1) Open the Public Hearing and accept testimony from any members of the public wishing to address the City Council on this subject; 2) Conclude and close the public hearing; and 3) Refer the matter to Closed Session.

**NOTE:** Members of the public wishing to address the City Council on this item should speak "in favor" or "in opposition" to the subject.

**Mayor Murphy closed the hearing.**

FILE LOCATION: MEET (61)

COUNCIL ACTION: (Time duration: 3:46 p.m. – 3:50 p.m.)

ITEM-250: Settlement of Personal Injury Claim of Vickie L. Metzler.

(R-2004-338)

Adopted as Resolution R-298414.

A Resolution approved by the City Council in Closed Session on Tuesday, September 23, 2003, by the following vote: Peters-yea; Zucchet-yea; Atkins-yea; Lewis-yea; Maienschein-not present; Frye-yea; Madaffer-not present; Inzunza-not present; Mayor-yea.

Authorizing the City Manager to pay the sum of \$100,000 in complete and final settlement of each and every claim against the City of San Diego, its agents and employees, resulting from personal injury claim of Vickie L. Metzler (Superior Court Case No. GIC 801136) on August 4, 2001;

Authorizing the City Auditor and Comptroller to issue one check in the amount of \$100,000 made payable to Vickie L. Metzler and her attorney of record, Thomas A. Leary, APC.

Aud. Cert. 2400314.

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

ITEM-251: 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:

SUBDIVISION

COMMUNITY AREA

California Terraces Unit No. 3B

Otay 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-252: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that proposals shall be submitted 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 Tuesday, March 2, 2004 election:

| <u>DAY</u> | <u>DATE</u> | <u>DAYS<br/>BEFORE<br/>ELECTION</u> | <u>EVENT</u>  |
|------------|-------------|-------------------------------------|---|
| Friday     | 09/26/2003  | 158                                 | LAST DAY (10:00 a.m.) for public, departments and agencies to submit ballot proposals to City Clerk for review by Rules Committee |
| Wednesday  | 10/01/2003  | 153                                 | Rules Committee review  |

|          |                                     |           |   |
|----------|-------------------------------------|-----------|---|
| Monday   | 10/27/2003                          | 127       | Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee      |
| Monday   | 11/03/2003<br>through<br>ordinances | 120<br>to | Council adopts propositions for ballot and directs City Attorney to prepare     |
| Monday   | 11/17/2003                          | 106       |   |
| Monday   | 11/24/2003                          | 99        | Council adopts ordinances prepared by City Attorney                             |
| Friday   | 12/05/2003                          | 88        | Last day for City Clerk to file with Registrar of Voters all elections material |
| Thursday | 12/18/2003                          | 75        | Last day to file ballot arguments with City Clerk.                              |

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

ITEM-S400: National Water Monitoring Day.

**COUNCILMEMBER PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2004-387) ADOPTED AS RESOLUTION R-298484

Encouraging the citizens of San Diego and all levels of the government to make clean water a priority in their decisions, to recommit to achieving the goals set forth in the Clean Water Act, and does hereby proclaiming October 17, 2003 to be "National Water Monitoring Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:47 p.m. – 2:54 p.m.)

MOTION BY PETERS TO ADOPT. Second by Frye. 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-S401: Domestic Violence Awareness Month.

**COUNCILMEMBER ATKINS' AND CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-409) ADOPTED AS RESOLUTION R-298485

Recognizing the effect that domestic violence has on the men, women, and children of San Diego and across the nation, and supporting and encouraging efforts to stop domestic violence in San Diego;

Proclaiming the month of October 2003, to be "Domestic Violence Awareness Month" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:54 p.m. – 3:07 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Frye. 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-S402: White Cane Safety Day.

**COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-393) ADOPTED AS RESOLUTION R-298486

Proclaiming October 15, 2003 to be "White Cane Safety Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:23 p.m. – 3:33 p.m.)

MOTION BY MAIENSCHIN 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-S403: October is Disability Awareness Month.

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-386) ADOPTED AS RESOLUTION R-298487

Commending the hundreds of volunteer disabled citizens and the citywide staff for their commitment to help make all San Diegans aware of the rights and needs of citizens with all types of disabilities;

Proclaiming October 2003 to be "Disability Awareness Month" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:07 p.m. – 3:22 p.m.)

MOTION BY FRYE TO ADOPT. Second by Atkins. 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-S404: General Records Disposition Schedule.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was re-introduced as amended on 9/29/2003.  
(Council voted 9-0):

(O-2003-150 Rev.) ADOPTED AS ORDINANCE O-19219 (New Series)

Amending the San Diego Municipal Code by amending Chapter 2, Article 2, Division 26, by amending Sections 22.2604 and 22.2605, all relating to Procedures Governing the Management of the City Records.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. 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-S405: AMN Healthcare Day.

**COUNCILMEMBER PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2004-402) ADOPTED AS RESOLUTION R-298488

Declaring Thursday, October 9, 2003 to be "AMN Healthcare Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:15 p.m.)

CONSENT MOTION BY LEWIS 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-S406: Consideration and Possible Action to Introduce and Adopt an Ordinance Submitting to the Voters a Ballot Proposition Relating to Increasing the City's Transient Occupancy Tax from 10.5% to 13%.

(See City Manager Report CMR-03-202; Report from the City Attorney dated 10/9/2003; memorandums from Lisa Irvine dated 10/9/2003, and Ed Ryan dated 10/8/2003.)

**TODAY'S ACTION IS:**

Introduce and adopt the following ordinance:

(O-2004-44A)                      TRAILED TO TUESDAY, OCTOBER 14, 2003, WITH  
DIRECTIONS

Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Election Consolidated with the California State General Election to be held on March 2, 2004 one proposition relating to increasing the City's Transient Occupancy Tax by 2.5%.

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

On 10/1/2003, RULES voted 3 to 1 to:

- 1) Refer the proposed ordinance to the City Manager for a financial analysis and to the City Attorney for a legal analysis, and for drafting changes as to form and not as to substance.
- 2) Present to City Council on October 13 or 14, 2003.
- 3) Move the allocation to Fire from 1.0 to .75; redistribute the .25 as follows: preparation over three years of a Parks Master Plan as proposed by the Park and Recreation Department Budget Working Group; remainder distributed equally over B, C, and D on page 6; allow funds allocated in Section D to be used to prepare the coastal infrastructure plan.
- 4) Delete the sentence on page 7, top paragraph, beginning with "If the City Council fails to adopt..."
- 5) Provide a five-year opportunity for the Tourism Promotion Review Board to adjust funding minimums outlined on pages 7 and 8 (but not the 2.5 cents level of funding), every five years, on a two-thirds vote, subject to veto but not amendment on a two-thirds vote of the City Council.
- 6) Provide that if there is any successful challenge to the ordinance, we would return to the status quo.

- 7) Ensure that the measure is subject to the existing charter provisions allowing declaration of financial emergency.
- 8) Clarify that maintenance of effort applies to the enumerated equipment and infrastructure pages 4-6, and is not a requirement to escalate overall Police and Fire budgets by the amount of growth in the General Fund.
- 9) Eliminate “debt service for the bond debt for” on page 9.

(Councilmembers Peters, Maienschein, and Madaffer voted yea. Mayor Murphy voted nay. Councilmember Inzunza not present.)

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:52 p.m. – 6:24 p.m.)

**MOTION BY PETERS TO TRAIL TO TUESDAY, OCTOBER 14, 2003, WITH THE FOLLOWING DIRECTIONS TO THE CITY ATTORNEY:**

A. SUPPORTS THE FOLLOWING RECOMMENDATIONS: 1) THE CITY MANAGER’S SUGGESTION TO ELIMINATE A1 ON PAGE 17, WITH REGARD TO EARMARKING TO PRIVATE ORGANIZATIONS; 2) THE TERM LIMIT CLARIFICATION; 3) THE CHANGE TO THE TITLE; 4) THE CITY MANAGER’S RECOMMENDATION IN THE BLUE VERSION ON PAGE 17 OF 24, THAT THE BUDGET FOR THE TOURISM PROMOTION REVIEW BOARD BE BASED UPON REVENUE PROJECTIONS PROVIDED BY THE CITY MANAGER; 5) THE CITY MANAGER’S RECOMMENDATION TO REMOVE THE LANGUAGE ON PAGE 20 OF 24 OF VERSION C, THE GREEN VERSION, REGARDING THE LIMIT ON HOW MUCH THE TOURISM PROMOTION FUND WOULD PAY FOR THE EXPENSES THAT WERE GENERATED BY THE BOARD’S OWN ACTIVITIES, SO THAT IF THE TOURISM PROMOTION REVIEW BOARD HAD ADDED COSTS AND STAFF ASSOCIATED WITH IT, THAT THEY WOULD HAVE TO FUND THEMSELVES OUT OF THEIR OWN MONIES.

B. REQUEST THAT THE CITY ATTORNEY RETURN WITH THE FOLLOWING CHANGES TO THE GREEN VERSION: 1) IF THE MANAGER FEELS THAT THERE IS A \$250,000 HIT TO THE GENERAL FUND, PROVIDE THE INFORMATION AS TO WHAT THE ADJUSTMENT WOULD HAVE TO BE TO TAKE THAT \$250,000 OUT OF THE INFRASTRUCTURE FUND AND RESTORE IT TO THE GENERAL FUND;

2) THAT THE MAINTENANCE OF EFFORT PROVISION AND THE EARMARKS, AS DISCUSSED AT RULES COMMITTEE, BE SUBJECT TO AN ESCAPE CLAUSE IN THE EVENT OF AN EMERGENCY, SOME OF WHICH ARE LAID OUT IN SECTION 17 OF THE CITY CHARTER. THE ESCAPE CLAUSE SHOULD BE REVISED TO REFLECT THAT KIND OF EMERGENCY, AND ALSO INCLUDE A FINANCIAL EMERGENCY, SO THAT COUNCIL HAS THE ABILITY TO RESPOND WITHOUT A VOTE OF THE PEOPLE; 3) THE REFERENCES MADE IN THE EARMARKS, FOR INSTANCE, THE CONVENTION AND VISITORS BUREAU SAYS "...ALL OF WHICH REVENUE SHALL BE IRREVOCABLY DEDICATED AND THEN THE ALLOCATION OF THIS PORTION OF THE TRANSIENT AND OCCUPANCY TAX AND DEDICATION OF THE REVENUE GENERATED BY THE SAN DIEGO CONVENTION AND VISITOR'S BUREAU FOR ITS OPERATION SHALL BE IRREVOCABLE SUBJECT ONLY TO A VOTE OF THE ELECTORATE TO MODIFY OR APPEAL IT." THIS LANGUAGE SHOULD HAVE BEEN REPLACED WITH LANGUAGE STATING THAT EVERY FIVE YEARS THERE WOULD BE A REVIEW AND THAT IT COULD BE CHANGED IN THAT WAY AND NOT GO TO THE BALLOT FOR THAT; 4) IN THE EVENT THAT THIS WOULD BE CONSIDERED IN THE FORM OF A CHARTER AMENDMENT, PROVIDE COUNCIL WITH THE LANGUAGE AMENDING THE CHARTER; 5) PROVIDE COUNCIL WITH ALTERNATIVES WITH RESPECT TO THE ESCAPE CLAUSE FOR EARMARKING AND FOR THE MOE; AND 6) RETAIN HIS REQUEST TO FUND A CITY-WIDE PARK MASTER PLAN TO GUIDE PRESENT AND FUTURE ALLOCATIONS AS A BASIS FOR DEALING WITH THE WHOLE PARKS SYSTEM, FOLLOWED BY A BALLOT MEASURE IN THE FUTURE, TO BUY OPEN SPACE AND TO CREATE NEIGHBORHOOD PARK OPPORTUNITIES THROUGHOUT THE CITY.

Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-nay, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-nay, Mayor Murphy-yea.

ITEM-S407: Easement Grant – San Diego Gas & Electric Company – Morena Vista.

(Morena Vista Community Area. District-6.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-401) ADOPTED AS RESOLUTION R-298489

Authorizing the City Manager to execute a deed conveying to San Diego Gas & Electric, an easement for the purpose of erecting, constructing, modifying, improving, reconstructing, relocating, repairing, maintaining and using facilities consisting of poles, wires, cables, and appurtenances for the transmission and distribution of electricity and related purposes, and underground facilities and appurtenances for the transmission and distribution of electricity and related purposes, affecting Lots 3 and 4 in Block 385 and Lots 1, 2, and 4 in Block 386 of Old San Diego, according to Map thereof made by James Pascoe;

Authorizing the City Manager to execute a deed conveying to San Diego Gas & Electric, an easement for the purpose of erecting, constructing, modifying, improving, reconstructing, relocating, repairing, maintaining and using underground and overhead facilities and appurtenances for the transmission and distribution of electricity affecting that portion of Lots 1, 2, and 4 in Block 352 of Old San Diego according to Map thereof made by James Pascoe.

**CITY MANAGER SUPPORTING INFORMATION:**

An Exclusive Negotiation Agreement was executed on June 12, 1998, with CityLink Investment Corporation for development of a mixed use, residential and commercial project at the Morena/Linda Vista Trolley Station. A Ground Lease term sheet was approved on April 8, 1999 and an approved Amended and Restated Disposition and Development Agreement (DDA) was approved January 15, 2003. Extensive negotiations have occurred since that time. One of the issues of major impact to the development site is the need to underground existing major overhead utility lines. The two proposed SDG&E easement locations are to accomplish the utility undergrounding for the Morena Vista project and utility underground conversion for the surrounding area.

The first proposed electrical easement site located west of Morena Boulevard at Friars Road is the current location of above ground towers for transmission lines over the San Diego River and the proposed point of undergrounding for the Morena Vista project and electrical underground conversion for the surrounding area. This easement area, Por. APN: 436-470-13, 19, 21 and 23,

is approximately 0.4 of an acre and is already encumbered by SDG&E facilities from an expired lease. Based on a fair market appraisal of the proposed easement, the just compensation to the City is an advance one time payment of \$225,350.

The second proposed electrical easement site, located in the vicinity of Friars Road and Napa Street, is required for the eastern portion of the underground conversion for the Morena Vista Project and electric underground conversion for the surrounding area. The permanent easement area, Por. APN: 436-520-03, 05, and 06, is approximately 0.13 of an acre and the temporary construction area is 384 square feet. Based on the fair market appraisal of the easement area, uninfluenced by existing or planned SDG&E facilities the just compensation to the City is an advance one time payment of \$13,600.

**FISCAL IMPACT:**

A one time advance payment of \$238,950 will be deposited into General Capital Outlay Fund 302453.

Herring/Griffith/DCM

FILE LOCATION: DEED – F-9616

COUNCIL ACTION: (Time duration: 3:51 p.m. – 3:51 p.m.)

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

**NON-DOCKET ITEMS:**

None.

**ADJOURNMENT:**

The meeting was adjourned by Mayor Murphy in honor of the memory of:

Joan Beverly Kroc, as requested by Mayor Murphy.

FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Time duration: 6:24 p.m. – 6:28 p.m.)