

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, OCTOBER 14, 2003  
AT 9:00 A.M.  
IN THE COUNCIL CHAMBERS - 12<sup>TH</sup> FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Mayor Murphy at 10:12 a.m. Mayor Murphy introduced and welcomed the Honorable Mayor Pearl Briggs of Bromyard and the Winslow Town Council. Mayor Briggs is from a small farming town in England and vacationing in San Diego for the first time with her husband, Ian Briggs.

Mayor Murphy thanked the League of California Cities for recognizing the City of San Diego with two awards. Executive Director Chris McKenzie from the League of California Cities presented the "Helen Putnam Award for Excellence" and the "Think Blue Public Education and Media Advocacy Campaign" awards to the City of San Diego. Mayor Murphy acknowledged the combined efforts and dedication of several individuals in the City that helped make these achievements possible. The meeting was recessed by Mayor Murphy at 11:13 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:12 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 2:40 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 2:50 p.m. with Council Member Inzunza not present. Mayor Murphy adjourned the meeting at 4:27 p.m. into Closed Session to be held immediately thereafter in the 12<sup>th</sup> floor conference room to discuss pending and potential litigation and Meet and Confer matters.

**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/Lane (gs/er)

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:

Don Stillwell spoke on the amount increased on medical prescriptions and bus schedules in Mission Valley.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-2:

Al Strohleim commented on the legal guidelines regarding the retention of documents for council members.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:38 a.m.)

PUBLIC COMMENT-3:

Reverend Dorsey spoke on affordable health care for people working in entry level jobs.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:42 a.m.)

PUBLIC COMMENT-4:

Robert Robinson spoke on the distribution of allocated funds to the community.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:43 a.m. – 10:44 a.m.)

PUBLIC COMMENT-5:

Ron Boshun commented on certain actions of Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:45 a.m. – 10:47 a.m.)

PUBLIC COMMENT-6:

Mel Shapiro requested investigations on contributions made to elected officials.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:48 a.m. – 10:50 a.m.)

PUBLIC COMMENT-7:

Jack Innis spoke on the progress of an undergrounding utility project on Burgener Boulevard.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:51 a.m. – 10:54 a.m.)

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

Nick Moffit encouraged the examination of situations where vehicles are being cited unfairly.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-9:

Mike Aguirre commented on violations of the City of San Diego in respect to the "Brown Act."

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:59 a.m. – 11:01 a.m.)

PUBLIC COMMENT-10:

Rebekah Eaves expressed her concern on the persecution of citizens practicing "Falun Gong" in Yantai, China.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:02 a.m. – 11:05 a.m.)

PUBLIC COMMENT-11:

Kevin Hauck invited everyone to City Heights for the "Neighborhood Facelift" this weekend.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:06 a.m. – 11:08 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Mayor Murphy commented that he agrees and stands with the City Attorney on the Chargers issue.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:30 p.m. – 2:31 p.m.)

COUNCIL COMMENT-2:

Council Member Frye announced that October 14<sup>th</sup> is Coast Calls to Congress Day and urged citizens to call elected officials in Washington regarding the energy bill that is being brought forward with little consideration for the people in the West Coast. Ms. Frye also commented on the Chargers issue.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:33 p.m.)

COUNCIL COMMENT-3:

Council Member Atkins wished Council Member Lewis a Happy Birthday. Ms. Atkins announced that she participated in the refurbishment of the Auto Museum and thanked everyone involved. Ms. Atkins also announced that the 32<sup>nd</sup> Street Canyon Coalition received a grant to restore the canyon. Council Member Atkins concurred with the remarks of City Attorney Gwinn and fellow Council Members in regards to the Chargers.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:36 p.m.)

COUNCIL COMMENT-4:

Council Member Lewis announced that the smoke shop in the Fourth District that was selling drug paraphernalia is now closed. Mr. Lewis thanked everyone involved in the effort to close the shop.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:36 p.m. – 2:38 p.m.)

COUNCIL COMMENT-5

Council Member Madaffer commented on the Chargers issue and agreed with City Attorney Gwinn's comments. Mr. Madaffer stated that he would like to see an open discussion on the Charger's issues.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:38 p.m. – 2:40 p.m.)

CITY MANAGER COMMENT:

None.

CITY ATTORNEY COMMENT:

City Attorney Gwinn thanked the Mayor and Council for their support of the Family Justice Center and announced that twelve new justice centers will be opened throughout the United States and the San Diego Family Justice Center will serve as a model for the new justice centers. Mr. Gwinn commented on the negotiations and issues with the Chargers that have been publicly disclosed recently.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:30 p.m.)

ITEM-330: Congestion Management Program (CMP) Self Certification.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-83) ADOPTED AS RESOLUTION R-298490

Declaring that the City certifies the following:

- a) It is in conformance with all applicable requirements of the 2002 CMP;
- b) It has conducted, and intends to conduct, by December 31 of each odd-numbered year, annual traffic counts, and has calculated levels of service for selected arterial intersections, consistent with the requirements identified in the CMP System Performance Evaluation chapter;
- c) It has adopted and implemented a local land use analysis program, consistent with the minimum requirements identified in the CMP Land Use Analysis Program chapter, and
- d) It will participate, if applicable, the preparation and adoption of deficiency plans in accordance with the requirements identified in the CMP Deficiency Plan chapter.

**CITY MANAGER SUPPORTING INFORMATION:**

The Congestion Management Program (CMP) roadway system is that part of the regional road network, under the City's jurisdiction, that together with the CMP freeways, state highways, and arterials in other jurisdictions provides for a significant amount of mobility throughout the San Diego region. A CMP roadway network, which includes many arterials within the City, had been recommended by the City and adopted by SANDAG since 1991. Preparation and regular updating of a CMP in urban areas of the state is required as part of State Proposition 111, passed by voters in 1990. The purpose of the CMP is to monitor the region's transportation system performance, and to develop mitigation programs to address both short and long-term traffic congestion.

The CMP requirements include monitoring of the CMP system every two years against the CMP Level of Service (LOS) standards. The standard cannot be below LOS E or the LOS in place when the CMP system was originally designated, whichever is the lower standard. Whenever the LOS standards are not met for a given roadway segment, then a Deficiency Plan needs to be prepared. For CMP freeways and conventional highways, Caltrans is responsible for calculating LOS. For the CMP arterials within the City's jurisdiction the City is responsible. Highlights of the 2002 CMP Update are shown in a SANDAG publication, "San Diego Region Congestion Management Program "As part of the 2002 CMP update, adopted by SANDAG in January of 2003, local agencies are required to certify their conformance with the provisions of the CMP to maintain the CMP portion of their gas tax allocation. The City is required to:

- On a biennial basis, collect annual traffic data for CMP arterials within their jurisdiction.
- Implement a land use analysis program evaluating the impacts of new projects on the CMP system.
- Where applicable, participate in the preparation and adoption of Deficiency Plans.

Traffic Engineering collects the required traffic data on a biennial basis. The requirement of a land use analysis program is met by the City's requirement for a traffic impact evaluation of new projects to be prepared by the developers under Development Services direction. SANDAG will take the lead on the preparation of Deficiency Plans for deficient local street segments with assistance from Planning Department staff.

The CMP self certification was presented to and unanimously approved by the Mayor's Freeway Congestion Strike Team on September 18, 2003.

With this action, Council certifies that the City is in compliance with the CMP provisions.

**FISCAL IMPACT:**

The costs for traffic data collection and Deficiency Plan preparation are respectively included in Traffic Engineering Division and Planning Department's current budgets. The costs for project traffic impact evaluation and review are borne by developers.

Ewell/Goldberg/SHP

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:09 a.m. – 11:09 a.m.)

MOTION BY MADAFFER TO ADOPT. Second by Peters. 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-331: Cooperative Agreement between the State of California and the City of San Diego for the Reconstruction of SR-163/Friars Road Interchange.

(Mission Valley Community Area. District-6.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-373)            ADOPTED AS RESOLUTION R-298491

Authorizing the City Manager to execute a Cooperative Agreement with the State of California for the reconstruction of State Route 163/Friars Road Interchange.

**CITY MANAGER SUPPORTING INFORMATION:**

The proposed project would provide improvements to the State Route 163/Friars Road Interchange and Friars Road in order to accommodate traffic within the interchange area due to new development in Mission Valley and in accordance with the Community Plan. The project consists of reconstructing State Route 163 (SR-163)/Friars Road Interchange, widening of SR-163/Friars Road over crossing and its approaches.

Pursuant to State and Highways Code Section 130, the State of California and the City of San Diego are authorized to enter into a cooperative agreement for improvements to State Highways within the City of San Diego. Therefore, it is proposed that the State of California and the City of San Diego enter into a cooperative agreement. The cooperative agreement outlines the City of San Diego's responsibilities in the development of the Project Report, all necessary environmental documentation, detailed Plans, Specifications and Estimates, right of way activities and the State of California's review and concurrence at appropriate stages of development.

**FISCAL IMPACT:**

\$2,530,000 in Federal RSTP and City Matching funds was authorized for this project by Resolution R-296191 on March 18, 2002. These funds are sufficient to cover the estimated costs associated with the City's responsibilities under the proposed cooperative agreement with the State.

Loveland/Belock/PB

FILE LOCATION:            MEET

COUNCIL ACTION:            (Time duration: 11:09 a.m. – 11:09 a.m.)

MOTION BY FRYE 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.

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) CONTINUED TO MONDAY, OCTOBER 20, 2003

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: 2:51 p.m. – 4:27 p.m.)

Motion by Peters to place Ordinance 2004-44D on the ballot with the following changes: In Section 35.0131 change Mission Bay allocation to 25 percent and change “C” Balboa Park Improvements to 25 percent. Add a new letter (e) called Open Space Acquisition as follows: Ten percent of the revenue projected for deposit into this fund shall be budgeted to acquire property within the Multiple Habitat Planning areas core biological resource areas and linkages as defined in the Multiple Species Conservation Program. Change the letter (e), which is in the next paragraph, to letter (f). Direct the City Attorney to prepare an impartial analysis of any measures for inclusion in the sample ballot pamphlet. Amend the ballot title to “Emergency Services, Roads, Parks, and Tourism and other Specified Uses Ordinance.” Change the summary as follows: “Shall the Transient Occupancy Tax (TOT) paid by hotel and motel visitors be increased by 2.5 percent, and shall these funds along with some current TOT funds be earmarked to fund fire rescue and police emergency service equipment and facilities, road improvements, park and coastal improvement, tourism promotion, library and arts programs, and shall a public audit be conducted of the uses of these funds.” On page 22 of 27 of the strikeout version, Section 35.0143 (g) change the maximum allowable for administrative and audit expenses to two percent. In Section 35.0129 (b), add funding public safety communications equipment. Return to yesterday’s language having to do with sufficient to meet the goals and objectives in Section 35.0130 in the comparable fire section.

Accept Council Member Maienschein's amendment to include language in Section 35.0128, of the strikeout version, page 5 of 27 in subparagraph 5, that says, "except in any fiscal year the TOT allocation for Library System Facilities is less than TOT allocation provided for in the Library System Financing Plan, then the amount of the shortfall will be deducted from all categories but Police and Fire Rescue Fund."

Accept the following amendments by Council Member Madaffer: On page 8 of 27 of the strikeout version of Section 35.0129, replace Item (g) with the words "any other fire rescue purpose," and change 25 percent to 10 percent. On Section 35.0130 Police Fund (g), change it to 10 percent. Make a grammatical correction on the very bottom of page 12 of 27 of the strikeout version, Section 35.0132, "The Tourism Marketing and Promotion Fund," by adding "as determined by the City Council" after the word "successor." Also on page 13 of 27, last sentence of the strikeout version make a grammatical correction by adding "of the" after "operating entity" and before "San Diego Convention Center"; and add the words "by the City Council" after the word "identified." On page 14 of 27 of the strikeout version regarding North Bureau, at the bottom of the page, add the words "at the determination of the City Council" after the words "should no successor exist."

Second by Madaffer. No vote taken.

Direct the City Attorney to prepare, on a separate sheet the following amendments that were proposed by Council Member Madaffer, and rejected as part of the motion by Council Member Peters, for consideration and discussion by Council: 1) On page 4 of 27 of the strike out version, delete, "TOT shall not be used for personnel stationed at existing facilities." 2) On page 21 of 27, Subsection (d) of Section 35.0143 of the strikeout version, delete Item (d) that refers to the Tourism Board. 3) On page 20 of 27, Article 7, Section 35.0143 (a), with Council having the final authority, add "City Council may not increase or decrease in allocation or add a recipient not included in the budget without first receiving approval from the Tourism Promotion Review Board.

**MOTION BY INZUNZA TO CONTINUE TO MONDAY, OCTOBER 20, 2003, TO GIVE THE CITY ATTORNEY AN OPPORTUNITY TO PRESENT ALL OPTIONS TO THE COUNCIL. Second by Maienschein. Passed by the following vote: Peters-nay, Zucchett-nay, Atkins-nay, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.**

ITEM-S500 Reinvestment Task Force – Feasibility Study to Establish Capital Collaborative.

(See San Diego Housing Commission Report CCR03-003.)

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

Adopt the following resolution:

(R-2004-310)            ADOPTED AS RESOLUTION R-298492

Accepting the City-County Reinvestment Task Force "Feasibility Study to Establish the San Diego Capital Collaborative."

FILE LOCATION:            MEET

COUNCIL ACTION:            (Time duration: 11:10 a.m. – 11:10 a.m.)

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.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 4:27 p.m.

FILE LOCATION:            MINUTES

COUNCIL ACTION:            (Time duration: 4:27 p.m.)