

THE CITY OF SAN DIEGO, CALIFORNIA
 MINUTES FOR REGULAR COUNCIL MEETING
 OF
 TUESDAY, NOVEMBER 18, 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 10:10 a.m. Collette Morris, President of the California Chapter of American Planning Association, presented Mayor Murphy with the 2003 Award of Excellence for Comprehensive Planning for the Strategic Framework Element and Action Plan for the City of Villages. Mayor Murphy stated that the City is proud of what they have accomplished and appreciate that the people in the State of California think that it is a significant step forward in implementing smart growth. He also commended and gave credit to Council Members Atkins and Peters, Planning Director Gail Goldberg, the Planning Department Program Chair Colleen Clemensen, Anna Matthews and the entire Planning staff, as well as Bill Anderson, Chair of the Planning Commission.

Mayor Murphy recessed the meeting at 11:53 a.m. to convene the Housing Authority and to convene the Redevelopment Agency thereafter. Mayor Murphy reconvened the regular meeting at 11:56 a.m. with all Council Members present. The meeting was recessed at 11:57 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:10 p.m. with all Council Members present. Mayor Murphy recessed the meeting 2:36 p.m. to reconvene the Redevelopment Agency. Mayor Murphy reconvened the meeting at 2:37 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 3:08 p.m. to reconvene the Housing Authority. Mayor Murphy reconvened the meeting at 3:10 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 3:42 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:44 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 5:28 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 5:40 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 5:44 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 5:48 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 5:52 p.m. into Closed Session immediately thereafter in the 12th floor conference room to discuss potential and pending 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 (mc/er)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-not 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:

Comment by Don Stillwell regarding his quest to get prayer and the flag salute on every single docket. He also thanked Council Member Maienschein for docketing the "God Bless America Week" item that was adopted yesterday.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:23 a.m. – 10:26 a.m.)

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

Comment by Theresa Quiroz regarding parking enforcement in City Heights.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-3:

Comment by Ron Boshun regarding Council's actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:31 a.m.)

PUBLIC COMMENT-4:

Comment by Al Strohlein regarding the gates installed at Crown Point and suggested using these gates elsewhere.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:32 a.m. – 10:35 a.m.)

PUBLIC COMMENT-5: REFERRED TO CITY MANAGER

Comment by Matt Peterson requesting that Council reconsider their action taken on November 4, and rescinding their vote in approving the La Jolla Community Plan Update. He informed Council that the San Diegans for Sensible Land Use group unanimously passed a motion to file a legal challenge concerning the implementation of the La Jolla Community Plan Update. He also requested that Council let him know the status of direction given to the City Manager to look back at the Land Development Code to figure out if previously conforming structures could be legally permitted to be rebuilt to their existing condition in the event of fire, storm action, God, or natural man-made disasters. He would like to know when that item will come back for further consideration by Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:37 a.m.)

PUBLIC COMMENT-6: REFERRED TO CITY ATTORNEY

Comment by Kathryn Burton regarding the Torrey Hills Community's request to direct the City Manager to rescind the Substantial Conformance Review approvals for AME, Nexus and Pacific Center in Torrey Hills.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:41 a.m.)

PUBLIC COMMENT-7:

Comment by Jim Bell regarding floodplain development.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. – 10:44 a.m.)

PUBLIC COMMENT-8:

Comment by Burt Decker regarding City Hall and NTC.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:48 a.m.)

PUBLIC COMMENT-9:

Comment by Joyceline Tarr requesting that better equipment be provided to the Police and Fire Departments.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:48 a.m. – 10:51 a.m.)

PUBLIC COMMENT-10:

Comment by Jarvis Ross regarding the speech given by Governor Schwarzenegger during his inauguration and the need to revisit the City budget in light of the recent firestorm.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-11:

Comment by Ian Trowbridge regarding the San Diego Data Processing Corporation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:54 a.m. – 10:57 a.m.)

PUBLIC COMMENT-12:

Comment by Hee Tae Ahn requesting that Council adopt a resolution to stop the torture of Falun Gaung practitioners in Yanti, China.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:58 a.m. – 11:01 a.m.)

PUBLIC COMMENT-13:

Comment by Steve McWilliams regarding the lawsuit against the City of San Diego that he and Barbara MacKenzie filed for the City's voluntary participation in a DEA raid on their medical marijuana garden.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:01 a.m. – 11:04 a.m.)

PUBLIC COMMENT-14:

Comments by Aaron Harrison, Gabriel Kornacki and Grant Tom seeking Council's support as the UFCW workers fight to save their healthcare from Vons, Albertsons and Ralphs supermarkets as they drastically cut their health benefits.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:04 a.m. – 11:07 a.m.)

PUBLIC COMMENT-15:

Comment by Symphonie and Thelma Mubaiwa from the Cornerstone Christian Academy commending Mayor Murphy for the excellent job that he is doing.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-16:

Comment by Chris Christensen regarding condominium conversions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:08 a.m. – 11:12 a.m.)

COUNCIL COMMENT:

NONE.

CITY MANAGER COMMENT:

NONE.

CITY ATTORNEY COMMENT:

Comment by Deputy City Attorney Les Girard stating that the City is currently negotiating a transition plan for DeAnza Point following determination of the City's lease with DeAnza Harbor Resort Group towards the end of this month. The City currently requires current residents at DeAnza to return a questionnaire to the City by November 21, 2003 to be eligible to participate in the transition plan. Today in Closed Session the City Council approved extending the deadline for the return of the questionnaire by the residents to December 1, 2003. If current residents return the questionnaire by December 1, and otherwise qualify for participation in the transition plan, the residents will have thirty days to execute the appropriate documents.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:56 a.m. – 11:57 a.m.)

ITEM-330: Two actions related to De Anza Mobile Home Park Harbor Resort and the Mission Bay Golf Course.

(See City Manager Report CMR-03-229. Mission Bay Community Area. District 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2004-528) ADOPTED AS RESOLUTION R-298609

Making findings relating to the Discontinuance of Non-Transient Residential Use at De Anza Point; authorizing the City Auditor and Comptroller to appropriate \$2,000,000 from the San Diego Housing Commission to implement the transition plan; and related actions.

Subitem-B: (R-2004-532) ADOPTED AS RESOLUTION R-298610

Authorizing the City Manager to charge and collect fees at the Mission Bay Golf Course pursuant to the fee schedule attached to the City Manager's Report CMR-03-229, and to expend funds for the operation of the Mission Bay Golf Course.

NOTE: See the Housing Authority Agenda of November 18, 2003 for a companion item.

FILE LOCATION: Subitems A & B: MEET

COUNCIL ACTION: (Time duration: 2:37 p.m. – 5:52 p.m.)

MOTION BY FRYE 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-331: Two actions related to Del Mar Mesa – FY 2004 Public Facilities Financing Plan and Facilities Benefit Assessment.

(See City Manager Report CMR-03-196 Rev.; Del Mar Mesa Public Facilities Financing Plan and Facilities Benefit Assessment, FY 2004; and letter from Paul Metcalf dated 9/18/2003. Del Mar Mesa Community Area. District-1.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2004-366) ADOPTED AS RESOLUTION R-298605

Designating an area of benefit in Del Mar Mesa and the boundaries thereof, confirming the description of Public Facilities Projects, the Community Financing Plan and Capital Improvement Program with respect to Public Facilities Projects, the method for apportioning the costs of the Public Facilities Projects among the parcels within the area of benefit and the amount of the Facilities Benefit Assessments charged to each such parcel, the basis and methodology for assessing and levying discretionary automatic annual increases in Facilities Benefit Assessments, and proceedings thereto, and ordering of proposed Public Facilities Project in the matter of Del Mar Mesa Facilities Benefit Assessment Area.

Subitem-B: (R-2004-367) ADOPTED AS RESOLUTION R-298606

Declaring that the assessment fee schedule contained in the Del Mar Mesa Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2004, as adopted and approved on October 20, 2003, by Resolution No. R-298498, (R-2004-364), is declared to be appropriate and applicable development impact fee schedule [DIF] for all properties within the Del Mar Mesa Community that have either never been assessed under the Del Mar Mesa Public Facilities Financing Plan or have not otherwise agreed to the payment of Facilities Benefit Assessment fees as prescribed by the City Council;

Declaring that the Docket Supporting Information (City Manager Report CMR-03-196 Rev.) and the text contained in the Del Mar Mesa Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2004, a copy of which is on file in the office of the City Clerk as Document No. RR-298498 (R-2004-364), are incorporated by reference into this Resolution as support and justification for satisfaction of findings required pursuant to California Government Code sections 66001(a) and 66001(b) for imposition of DIF's. Specifically, it is determined and found that this documentation:

1. Identifies the purpose of the DIF;

2. Identifies the use to which the DIF is to be put;
3. Demonstrates how there is a reasonable relationship between the DIF's use and the type of development project on which the DIF is imposed; and
4. Demonstrates how there is a reasonable relationship between the need for the public facility and the type of development project on which the DIF is imposed.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 10/01/2003, LU&H voted 4 to 0, to approve with staff to work on Mr. Metcalf's letter. (Councilmembers Peters, Zucchet, Lewis and Frye voted yea. Councilmember Atkins not present).

FILE LOCATION: Subitems A & B: STRT-FB-12 (33)

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

MOTION PETERS TO ADOPT. Second by Zucchet. 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-332: Two actions related to Serra Mesa Public Facilities Financing Plan, FY 2004.

(See City Manager Report CMR-03-195 and Serra Mesa Public Facilities Financing Plan FY 2004. Serra Mesa Community Area. District-6.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2004-136) CONTINUED TO TUESDAY, DECEMBER 2, 2003

Approving the document titled "Serra Mesa Public Facilities Financing Plan, Fiscal Year 2004," dated July 2003.

Subitem-B: (R-2004-137) CONTINUED TO TUESDAY, DECEMBER 2, 2003

Rescinding the existing Development Impact Fees for the Serra Mesa community and establishing new Development Impact Fees for all property within the Serra Mesa community.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 10/1/2003, LU&H voted 5 to 0 to approve the Fiscal Year 2004 Public Facilities Financing Plan and Facilities Benefit Assessment. (Councilmembers Zucchet, Atkins, Lewis, Frye, and Peters voted yea.)

FILE LOCATION: Subitems A & B: NONE

COUNCIL ACTION: (Time duration: 11:12 a.m. – 11:53 a.m.)

Motion by Frye to adopt, approving the Public Facilities Financing Plan for the Serra Mesa Community, rescind the existing Development Impact Fee and approve the established new Development Impact Fees for all property within Serra Mesa.

Second by Zucchet. Vote not taken.

MOTION BY MADAFFER TO CONTINUE THIS ITEM FOR TWO WEEKS, WITH DIRECTION TO STAFF TO PROVIDE COUNCIL WITH A SUPPLEMENTAL REPORT ON THE ISSUE OF FEES AND HOW THE HOSPITAL FITS INTO THIS PLAN. 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-333: Joint Use Cooperative Agreement Between the City of San Diego and the San Diego Unified School District for Joint Use of the Skyline Hills Branch Library.

(District-4)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2004-56) INTRODUCED, TO BE ADOPTED ON MONDAY,
DECEMBER 1, 2003

Introduction of an Ordinance authorizing the City Manager, or his designee, the Library Director, to execute a Joint Use Cooperative Agreement for joint use of the Skyline Hills Branch Library with the San Diego Unified School District of San Diego County, California, in support of the City's application for a California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000 (Proposition 14) Grant.

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

CITY MANAGER SUPPORTING INFORMATION:

Staff will be submitting an application for a Proposition 14 State Bond grant application for the Skyline Hills Branch Library in the third round of applications due January 16, 2004. This project will move forward as "first priority" project if a joint use agreement is in place.

As specified in the Education Code, Section 19994(a)(1), "first priority for new public libraries shall be given to joint use projects in which the agency that operates the library and one or more school district(s) have a cooperative agreement."

The School Agreement for the Skyline Hills Branch Library must be attached to the grant application. In this agreement, the Library and School District staff will work collaboratively and cooperatively on aligning the curriculum with the library's collection, providing an independent learning/homework center environment, youth empowerment projects through volunteer and internships opportunities, shared technology in evaluating electronic resources and a "technoculture" project to explore ways joint programming for students can be developed through electronic means. There is no intent on the part of the Library or District to add additional staff or funding to these projects.

The City Attorney states that because the City will be obligated to an agreement longer than 5 years, this item should be approved by ordinance pursuant to Charter Section 99. The Ordinance would authorize the City Manager (or his designee) to enter into a Joint Use Cooperative Agreement with the San Diego Unified School District should any grant be awarded. The agreement would be null and void if there is no grant award. The City has a current joint use agreement in place with the San Diego Unified School District for the Logan Heights Branch Library, which has received a Proposition 14 grant award.

Staff, therefore, recommends that this Ordinance be approved and the Manager directs the Library Director as his designee to enter into Joint Use Cooperative Agreement with the San Diego Unified School District.

FISCAL IMPACT:

There may be some minimal costs associated with replacing textbooks that may become lost.

Herring/Tatar/ES

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:34 p.m.)

MOTION BY LEWIS TO INTRODUCE. 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-S500: Three actions related to Skyline Hills Library Site Acquisition/Condemnation.

(See City Manager Report CMR-03-228. Skyline Community Area. District-4.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2004-389) ADOPTED AS RESOLUTION R-298608

FINDINGS MUST BE MADE AS PART OF COUNCIL ADOPTION

Determining and declaring that the public interest, convenience and necessity of the City of San Diego requires the acquisition of property described as Parcel 3 of Survey Map No. 6931, being a portion of Lot 1 of Highland Park Shopping Village Resubdivision No. 2, Map No. 5643, for the Skyline Hills Branch Library Renovation and Expansion Project and that the public interest, convenience and necessity require the acquisition and taking of fee simple title to the subject property;

Declaring that the property is deemed necessary for completion of the Skyline Hills Branch Library Renovation and Expansion Project;

Declaring the intention of the City to acquire the property under eminent domain proceedings to condemn, acquire, and obtain prejudgment possession of the property for the use of the City of San Diego;

Directing the City Attorney to commence an action in the Superior Court of the State of California, in and for the County of San Diego, for the purpose of condemning the property and acquiring immediate possession.

NOTE: 6 votes required.

Subitem-B: (R-2004-530) ADOPTED AS RESOLUTION R-298611

Authorizing and approving the expenditure of an amount not to exceed \$2,000,000 from Fund 30244, Org. 106, Object Account 4638, Job Order 351070 (CIP-35-107.0), solely and exclusively for costs related to acquisition and condemnation of fee title interests in real property required for the Skyline Hills Branch Library Renovation and Expansion Project.

Subitem-C: (R-2004-533) ADOPTED AS RESOLUTION R-298612

Certifying that Mitigated Negative Declaration LDR Project No. 14584, 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 declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the 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 Skyline Hills Branch Library Renovation and Expansion Project (Project);

Declaring that the City Council finds that Project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore approving the Mitigated Negative Declaration (MND);

Adopting the Mitigation Monitoring and Reporting Program;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project.

Aud. Cert. 2400489.

FILE LOCATION: Subitems A-C: MEET

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:34 p.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.

ITEM-S501: Two actions related to Tax Allocation Bonds for City Heights and North Park Redevelopment Project Areas.

(See City Manager Report RA-03-36/CMR-03-224. City Heights and North Park Redevelopment Project Areas. Districts-3, 4, and 7.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2004-531 Cor. Copy) ADOPTED AS RESOLUTION R-298613

Approving the issuance of an amount not to exceed \$7 million by the Redevelopment Agency of the City of San Diego for the City Heights Redevelopment Project 2003 Tax Allocation Bonds, Series A (Taxable) and Series B (Tax-Exempt), to finance redevelopment projects, including low and moderate income housing projects in the City Heights Redevelopment Project.

Subitem-B: (R-2004-529) ADOPTED AS RESOLUTION R-298614

Approving the issuance of an amount not to exceed \$13 million by the Redevelopment Agency of the City of San Diego for the North Park Redevelopment Project 2003 Tax Allocation Bonds, Series A (Taxable) and Series B (Tax-Exempt), to finance redevelopment projects, including low and moderate income housing projects in the North Park Redevelopment Project.

NOTE: See Redevelopment Agency Agenda of November 18, 2003 for a companion item.

FILE LOCATION: Subitems A-B: MEET

COUNCIL ACTION: (Time duration: 2:35 p.m. – 2:36 p.m.)

MOTION BY ATKINS 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 5:52 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:52 p.m.)