

THE CITY OF SAN DIEGO, CALIFORNIA  
 MINUTES FOR REGULAR COUNCIL MEETING  
 OF  
 MONDAY, JANUARY 26, 2004  
 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 2:07 p.m. Mayor Murphy recessed the meeting at 3:53 p.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 4:07 p.m. with Council Member Inzunza not present. Mayor Murphy recessed the meeting at 5:27 p.m. for the purpose of a break. The meeting was reconvened at 5:34 p.m. with Council Member Madaffer not present. Mayor Murphy adjourned the meeting at 6:28 p.m. into Closed Session on Tuesday, January 27, 2004, at 9:00 a.m. in the 12<sup>th</sup> floor conference room to discuss anticipated and existing litigation 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 (gs)

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 Sergeant Cynthia Hanna of the San Diego Police Department.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Inzunza.

FILE LOCATION: MINUTES

\* ITEM-50: Amend Municipal Code Section 26.16, Concerning Citizens Equal Opportunity Commission.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 1/13/2004 (Council voted 9-0):

(O-2004-35) ADOPTED AS ORDINANCE O-19255 (New Series)

Amending Chapter 2, Article 6, of the San Diego Municipal Code by amending Section 26.16, relating to Citizens Equal Opportunity Commission.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:11 p.m.)

CONSENT MOTION BY INZUNZA 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: Amending the San Diego Municipal Code to Add a Member to the Balboa Park Committee.

(Balboa Park Community Area. District-3.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 1/13/2004 (Council voted 9-0):

(O-2004-80 Cor.Copy) ADOPTED AS ORDINANCE O-19256 (New Series)

Amending Chapter 2, Article 6, Division 0 of the San Diego Municipal Code by amending Section 26.30 (f), pertaining to the Park and Recreation Board.

CONSENT MOTION BY INZUNZA 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.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:11 p.m.)

- \* ITEM-52: Cherokee Point Elementary School Joint Use Agreement.

(Mid City Community Area. District-3.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 1/13/2004 (Council voted 9-0):

(O-2004-60)                      ADOPTED AS ORDINANCE O-19257 (New Series)

Authorizing an Agreement with the San Diego Unified School, for the construction, operation, maintenance, and lease of turfed fields, paved parking area, and recreation facilities at Cherokee Point Elementary School.

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

CONSENT MOTION BY INZUNZA 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.

**FILE LOCATION:**                      MEET

**COUNCIL ACTION:**                      (Time duration: 2:10 p.m. – 2:11 p.m.)

\* ITEM-53: First Amendment to Pacific Beach Elementary School Joint Use Agreement.

(Pacific Beach Community Area. District-2.)

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2004-84)                      INTRODUCED, TO BE ADOPTED ON MONDAY,  
FEBRUARY 9, 2004

Introduction of an Ordinance authorizing the City Manager to execute a First Amendment to Joint Use Agreement with the San Diego Unified School District, for the construction, operation, maintenance, and lease of turfed fields, and recreational facilities at Pacific Beach Elementary School.

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

**CITY MANAGER SUPPORTING INFORMATION:**

The proposed facilities at Pacific Beach Elementary School will be developed and maintained through this twenty five (25) year no fee lease and joint use agreement with the San Diego Unified School District (SDUSD).

Pacific Beach Elementary School is bound by Turquoise Street to the north, Fanuel Street to the east and Tourmaline Street to the south. The terms for the agreement allow for the design, construction, operation and maintenance of an approximately 1.8 acres of irrigated and turfed multi-purpose playing fields.

The City and District have been cooperating in the use of numerous recreational facilities in accordance with the City-District Recreation Agreement of September 1948, and the Memorandum of Understanding (MOU) between the City and District for the Development and Maintenance of Joint Use Facilities adopted by the San Diego City Council on October 7, 2002 (Resolution No. R-297149) and by the District's Board of Education on October 8, 2002. The terms of the proposed agreement are consistent with the 1948 Recreation Agreement and MOU. The District's Board of Education approved this joint use agreement on October 14, 2003.

**FISCAL IMPACT:**

The annual maintenance costs at the Pacific Beach Elementary School site are consistent with the Financial Contribution formulas contained in the MOU and are estimated to be \$14,400 per year. Funding will be requested for FY2005 as a new facility.

Herring/Oppenheim/AP

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:11 p.m.)

CONSENT MOTION BY INZUNZA 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-100: Two actions related to Inviting Bids for the Construction of La Jolla Village Drive Widening from North Torrey Pines Road to Interstate 5.

(La Jolla and University Community Areas. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2004-340) ADOPTED AS RESOLUTION R-298806

Approving the plans and specifications for the construction of La Jolla Village Drive Widening from North Torrey Pines Road to Interstate 5 (Project);

Authorizing the City Manager, after advertising for bids in accordance with law, to award the Project construction contract to the lowest responsible and reliable bidder in an amount not to exceed \$4,736,890, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and comptroller to increase the Fiscal Year 2004 Capital Improvement Program by appropriating \$422,640 from Fund 105891, Black Horse Farms – Villa La Jolla, to CIP-52-452.0, La Jolla Village Drive – Torrey Pines Road to Villa La Jolla Drive;

Authorizing the expenditure of an amount not to exceed \$422,640 from CIP-52-452.0, Fund 105891, Black Horse Farms – Villa La Jolla Fund and \$6,046,500 from CIP-52-452.0, Fund 79001, Facilities Benefit Assessment Fund, for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

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

Subitem-B: (R-2004-545 Cor.Copy) ADOPTED AS RESOLUTION R-298807

Certifying that the Mitigated Negative Declaration (MND), LDR No. 42-0823, PTS No. 5264, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.) as amended; the National Environmental Policy Act; 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 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 MND;

Adopting the Mitigation Monitoring and Reporting Program, pursuant to California Public Resources Code Section 21081.6;

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 above Project.

**CITY MANAGER SUPPORTING INFORMATION:**

The widening of La Jolla Village Drive project will provide a six (6) traffic-lane prime arterial with sidewalks and bike lanes between North Torrey Pines Road and Gilman Drive and eight (8) traffic-lane prime arterial from Gilman Drive to Villa La Jolla Drive. It also includes a bridge widening and interchange improvements at La Jolla Village Drive/Gilman Drive overcrossing. This project is consistent with both the La Jolla/La Jolla Shores and University City Community Plans, and will improve capacity and safety in the area.

**FISCAL IMPACT:**

The total estimated cost of the project is \$7,126,640, of which \$422,640 is available from Fund 105891 Black Horse Farm -Villa La Jolla Fund for the La Jolla Village Drive Road Widening Project, and \$6,704,000 is available from Fund 79001, Facilities Benefit Assessment Fund.

Loveland/Belock/PB

**FILE LOCATION:** CONT – FCI Constructors, Inc.; W.O. 119729

**COUNCIL ACTION:** (Time duration: 2:10 p.m. – 2:11 p.m.)

CONSENT 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-101: Federal Habitat Conservation Planning Land Acquisition Program Grant.

(East Elliott Community Area. District-7.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-700)                      ADOPTED AS RESOLUTION R-298808

Authorizing the City Manager to apply to the Federal Habitat Conservation Planning Land Acquisition Grant Program (FHCPLA) for the Grant to acquire land located in the East Elliott area of the City of San Diego (Project);

Authorizing the City Manager to take all necessary actions to secure the Grant and to negotiate and execute all agreements necessary to comply with the FHCPLA's grant requirements;

Authorizing the City Manager to accept the Grant if it is secured;

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

Authorizing an increase of \$1,720,000 to the FY 2004 Capital Improvement Program Budget, CIP-37-443.0, Multiple Species Conservation Program Property Acquisition, Fund 30244, CIP Construction Fund, upon receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$1,720,000 from CIP-37-443.0, Multiple Species Conservation Program Property Acquisition, for the purpose of land acquisition, contingent upon receipt of a fully executed grant agreement.

**CITY MANAGER SUPPORTING INFORMATION:**

The City of San Diego is requesting consideration of a \$1,720,000 grant from the Federal Habitat Conservation Planning Land Acquisition Grant program to assist in the acquisition of properties for open space in the City of San Diego, under the Multiple Species Conservation Program (MSCP).

This Federal grant will be used along with a previously approved State Wildlife Conservation Board Grant to secure critical habitat within the City of San Diego's Multi-Habitat Planning Area of the MSCP. The land proposed to be acquired is located in the East Elliott area of the City.

**FISCAL IMPACT:**

A total of \$1,720,000 would be received under the grant. Matching funds would come from existing grant from the State Wildlife Conservation Board which was approved by City Council on 3/24/2003 (R-297751).

Ewell/Goldberg/KG

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:11 p.m.)

CONSENT 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-102: Sobriety Checkpoint Grant Program from the California Office of Traffic Safety.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-710) ADOPTED AS RESOLUTION R-298809

Authorizing the Chief of Police to apply for, accept, manage and expend funds for the grant entitled "Sobriety Checkpoint Program for Local Law Enforcement Agencies," including any extensions or amendments thereof;

Declaring that such authorization shall include all aspects of grant acceptance, operation, contracts, expenditures, and certifications, and that the City will comply with all applicable statutory and/or regulatory requirements related to this program;

Authorizing the Chief of Police, on behalf of the City Manager, to accept, expend and administer any amendments, extensions, renewals, or future funding of this

program for a period of up to five years, provided funding is made available by the State of California;

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

**CITY MANAGER SUPPORTING INFORMATION:**

This project is funded by the California Office of Traffic Safety (OTS). The goal of the Sobriety Checkpoint Program is to reduce the number of victims killed and injured in alcohol-involved crashes. \$263,406 in grant funds will be used to conduct thirty-three sobriety checkpoints. These checkpoints will occur nightly between December 19, 2003 to January 4, 2004, and again June 24 – July 10, 2004.

Two sergeants and fourteen officers from the San Diego Police Department will staff each of these checkpoints. These checkpoints are in support of the national “You Drink and Drive, You Lose” campaign.

**FISCAL IMPACT:**

This OTS grant will provide \$263,406 to pay for officer overtime only. There is no requirement for matching funds or to continue project-related expenditures or services after grant funding is exhausted.

Uberuaga/Lansdowne/DJW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:11 p.m.)

CONSENT 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-103: Amendment No. 1 to the Agreement with Dudek & Associates for Sewer Pump Station 27 Restoration Project.

(See memorandum from Frank Belock dated 1/5/2004. La Jolla Community Area. District-1.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-719)                      ADOPTED AS RESOLUTION R-298810

Authorizing the City Manager to execute a First Amendment to Agreement with Dudek & Associates, Inc., for \$92,630 for additional engineering consulting services for the Sewer Pump Station 27 Rehabilitation Project in an amount not to exceed \$330,038;

Authorizing the expenditure of an amount not to exceed \$92,630 from Sewer Fund 41506, CIP-46-106.0, Annual Allocation – Sewer Pump Stations, for the purpose of providing funds for the project;

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

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

On 1/14/2004, NR&C voted 5 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

**SUPPORTING INFORMATION:**

Council authorized an agreement with Almgren & Koptionak, Inc., on March 31, 1998, Document Number R-289906, to provide engineering services for the rehabilitation of Sewer Pump Station 27. On October 20, 1998, the staff and assets of Almgren & Koptionak, Inc. (A&K), have been fully merged into Dudek & Associates, Inc., and assumed all responsibilities for this contract agreement between the City and Almgren & Koptionak.

Sewer Pump Station 27 is located at 2211 Avenida de la Playa between El Paseo Grande and Paseo del Ocaso within the Coastal Zone and the La Jolla Community Planning Area. The project consists of a complete mechanical and electrical rehabilitation, and wet well rehabilitation of the existing pump station as well as construction of a new underground emergency storage tank and generator room.

During the last phase of design, the City acquired a Building Permit and Dewatering Permit with the consultant's assistance. Permit acquisition was time consuming and required several changes to the project's original design and the addition of several sheets to the plans and specifications.

Shortly after the start of construction the contractor defaulted and a takeover agreement was required to continue work on the project. With a new contractor on board, consultant services during construction will need to be provided. As a result of the required design modifications, as well as the complexity and the delays in construction due to contractor default, this amendment covers expenses for these unforeseen conditions and design support for the construction phase to ensure successful construction completion.

Council Action is required to approve Amendment No. 1 to contract agreement with Dudek and Associates for an additional amount not to exceed \$92,630. Funding for this project is available from Sewer Fund 41506, CIP-46-106.0, Annual Allocation – Sewer Pump Station.

**FISCAL IMPACT:**

The consultant agreement previously authorized was for \$237,408. The first amendment will authorize additional compensation not to exceed \$92,630 for consulting services for a total agreement cost of \$330,038. Funding for this purpose is available from Sewer Fund 41506, CIP-46-106.0, Annual Allocation – Sewer Pump Stations for this purpose and was previously authorized.

Loveland/Belock/HR

Aud. Cert. 2400669.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:11 p.m.)

CONSENT 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-104: Reappointments to the Qualcomm Stadium Advisory Board.

(See memorandum from Mayor Murphy dated 1/16/2004, with resumes attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-733) ADOPTED AS RESOLUTION R-298811

Council confirmation of the following reappointments by the Mayor to serve as members of the Qualcomm Stadium Advisory Board for terms ending January 1, 2008:

Reappointments

Robert W. Brownlie  
Joseph Martinez  
Regina A. Petty  
Stephen M. Redfearn

FILE LOCATION: MEET (61)

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:11 p.m.)

CONSENT 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-105: 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-2004-511) ADOPTED AS RESOLUTION R-298812

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: 2:10 p.m. – 2:11 p.m.)

CONSENT 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-106: 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-2004-521)            ADOPTED AS RESOLUTION R-298813

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: 2:10 p.m. – 2:11 p.m.)

CONSENT 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-107: 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-2004-525)            ADOPTED AS RESOLUTION R-298814

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 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: 2:10 p.m. – 2:11 p.m.)

CONSENT MOTION BY INZUNZA 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-108: 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-2004-539) ADOPTED AS RESOLUTION R-298815

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: 2:10 p.m. – 2:11 p.m.)

CONSENT 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-109: Declaring a Continued Local Emergency Due to the October 2003 Wildfires.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-550)            ADOPTED AS RESOLUTION R-298816

Declaring a Continued Local Emergency due to the October 2003 Wildfires.

FILE LOCATION:            GEN'L - State of Emergency Due to the October 2003  
Wildfires

COUNCIL ACTION:            (Time duration: 2:10 p.m. – 2:11 p.m.)

CONSENT 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-200: Three actions related to PETCO Park Ordinances.

(See City Manager Report CMR-04-011. Centre City Community Area.  
Districts-2 and 8.)

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinances:

Subitem-A: (O-2004-29)    INTRODUCED, TO BE ADOPTED ON MONDAY,  
FEBRUARY 9, 2004

Introduction of an Ordinance amending Chapter 2, Article 2, Division 40, of the San Diego Municipal Code by amending Section 22.4009, titled "Time for Filing Application for Special Event Permit; Time for Notifying City Manager of Demonstration."

Subitem-B: (O-2004-36) INTRODUCED, TO BE ADOPTED ON MONDAY,  
FEBRUARY 9, 2004

Introduction of an Ordinance amending Chapter 3, Article 3, Division 14, of the San Diego Municipal Code by amending Section 33.1406, titled "Soliciting, Peddling Prohibited in Certain Areas."

Subitem-C: (O-2004-37) INTRODUCED, TO BE ADOPTED ON MONDAY,  
FEBRUARY 9, 2004

Introduction of an Ordinance amending Chapter 5, Article 9, Division 1, of the San Diego Municipal Code by amending the title of Article 9, Division 1; by amending Sections 59.0101 and 59.0102; and by repealing Sections 59.0103 and 59.0104; by adding Division 2, titled "Prohibited Activities within City Sports Facilities," Sections 59.0201 and 59.0202; by adding Division 3, titled "Ballpark District," Sections 59.0301, 59.0302, 59.0303, and 59.0304; by adding Division 4, titled "Outfield Park," Section 59.0401; and by adding Division 5, titled "Prohibited Activities in Qualcomm Stadium Parking Facility," Sections 59.0501, 59.0502, and 59.0503, all relating to City Sports Facilities.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:21 p.m. – 5:27 p.m.)

MOTION BY ZUCCHET TO INTRODUCE. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-nay, Lewis-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

ITEM-201: Two actions related to Ballpark Event Residential Permit Parking.

(See City Manager Report CMR-04-014. Barrio Logan, Southeastern San Diego (Sherman Heights), Golden Hill, and Uptown Community Areas. Districts-3 and 8.)

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinances:

Subitem-A: (O-2004-86) INTRODUCED WITH DIRECTION, TO BE ADOPTED  
ON MONDAY, FEBRUARY 9, 2004

Introduction of an Ordinance amending Chapter 8, Article 6, of the San Diego Municipal Code by adding new Division 21, titled "Ballpark Event Residential Permit Parking," and by adding New Sections 86.2101, 86.2102, 86.2103, 86.2104, 86.2105, 86.2106, 86.2107, 86.2108, 86.2109, 86.2110, 86.2111, and 86.2112, all relating to Ballpark Event Parking.

Subitem-B: (O-2004-89) INTRODUCED WITH DIRECTION, TO BE ADOPTED  
ON MONDAY, FEBRUARY 9, 2004

Introduction of an Ordinance amending Chapter 8, Article 6, of the San Diego Municipal Code by amending Section 86.06, relating to Ballpark Event Parking.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:21 p.m. – 4:44 p.m.)

MOTION BY ZUCCHET TO INTRODUCE THE ORDINANCE IN SUBITEM A AS MODIFIED BY INTERLINEATION AND READ INTO THE RECORD BY CITY ATTORNEY, RICK DUVERNAY AS FOLLOWS: 1) ON PAGE 4, SECTION 86.2104, DESIGNATION OF BALLPARK EVENT RESIDENTIAL PERMIT PARKING DISTRICTS, CHANGE THE WORD "MANAGER" TO "COUNCIL"; 2) ON PAGE 4, SECTION 86.2105, BALLPARK EVENT RESIDENTIAL PERMIT PARKING DISTRICTS, CHANGE THE WORD "MANAGER" TO "COUNCIL"; AND 3) INTRODUCE THE ORDINANCE IN SUBITEM B.

DIRECT THE CITY MANAGER TO BRING BACK THIS ITEM BEFORE COUNCIL EXPANDING THE COALITION ADVOCATING REDEVELOPMENT EXCELLENCE TO INCLUDE THE CENTRE CITY COMMUNITIES AND ADDRESS COST IMPLICATIONS. Second by Atkins. Passed by the following vote: Peters-nay, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-202: Ballpark Event Transportation and Parking Plan.

(See City Manager Report CMR-04-015. Centre City, Barrio Logan, Southeastern San Diego, North Park, Golden Hill, and Uptown Community Areas. Districts-2, 3, and 8.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-726 Rev.)                      ADOPTED AS AMENDED AS RESOLUTION R-298817

Approving the PETCO Park Event Transportation and Parking Management Plan.

FILE LOCATION:                      MEET (64)

COUNCIL ACTION:                      (Time duration: 2:21 p.m. – 6:12 p.m.)

MOTION BY ZUCCHET TO ADOPT THE RESOLUTION WITH THE FOLLOWING AMENDMENTS: 1) REMOVE THE BUS STAGING ON 14TH STREET FROM THE PETCO PARK EVENT TRANSPORTATION AND PARKING MANAGEMENT PLAN AND EVALUATE OTHER ALTERNATIVES; 2) SUNSET THE PETCO PARK EVENT TASK FORCE IN THREE YEARS; 3) ADD THE GASLAMP QUARTER TO THE PARTICIPANTS OF DISCUSSIONS ON CONCURRENT EVENTS; 4) RETURN THE PETCO PARK EVENT TRANSPORTATION AND PARKING MANAGEMENT PLAN YEARLY TO COUNCIL FOR REVIEW AND APPROVAL. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-nay, Lewis-yea, Maienschein-not present, Frye-nay, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

ITEM-203: **NOTE:** This item has been pulled at the request of the City Manager.

ITEM-204: Community Facilities District No. 2 (Santaluz).

(Black Mountain Ranch Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-722) ADOPTED AS RESOLUTION R-298818

Declaring that the City of San Diego acting as the legislative body of Community Facilities District No. 2 (Santaluz) authorizes the issuance of its Improvement Area No. 1 Special Tax Bonds Series A of 2004 in a principal amount not to exceed \$5,000,000 and its Improvement Area No. 4 Special Tax Bonds Series A of 2004 in a principal amount not to exceed \$10,500,000 and approving certain documents and taking certain other actions in connection therewith.

**CITY MANAGER SUPPORTING INFORMATION:**

Pursuant to provisions of the Mello-Roos Community facilities Act of 1982, the City Council has previously adopted resolutions and ordinances to establish Community Facilities District No. 2 (Santaluz) (the "District") and Improvement Area Nos. 1, 2, 3 and 4 therein, declared the necessity to incur bonded indebtedness, and certified the affirmative results of special elections among the landowners to approve the levy of special taxes and issuance of special tax bonds within each of the improvement areas.

On November 2, 2000, the District issued \$56,020,000 of Improvement Area No. 1 Special Tax Bonds and \$4,350,000 of Improvement Area No. 3 Special Tax Bonds to finance necessary public facilities within or serving the District.

Today's action would authorize the issuance of not to exceed \$5,000,000 of additional Improvement Area No. 1 Special Tax Bonds and the initial issuance of not to exceed \$10,500,000 of Improvement Area No. 4 Special Tax Bonds of the District; approve the form, execution, and delivery of an Improvement Area No. 1 and an Improvement Area No. 4 Bond Indenture ("Indenture"), Bond Purchase Agreement ("BPA"), City Continuing Disclosure Certificate, and Preliminary Official Statement ("POS"), and would provide for the preparation of a Final Official Statement. The Indenture is an agreement between the City and the trustee which pledges special taxes to the repayment of the bonds, sets forth the terms of the bonds, and contains the responsibilities and duties of the trustee and the rights of the bondholders. The BPA is an agreement between the City and UBS Financial Services, Inc., the underwriter, for the initial purchase of the bonds. The City Continuing Disclosure Certificate requires the City to make secondary market disclosure on an annual basis to comply with federal securities regulations. The POS is a document that describes the bond issuance to the marketplace. Today's action would also authorize the City Manager, Deputy City Manager, City Treasurer, or their designees, to take certain actions necessary to execute and deliver documents and take such other actions to accomplish the issuance, sale and delivery of the bonds.

If the above resolution is adopted, it is anticipated that the Improvement Area No. 1 and the Improvement Area No. 4 Special Tax Bonds would be issued in February 2004. The proceeds of the bonds would be used primarily to finance certain necessary public facilities contained in the Black Mountain Ranch Public Facilities Financing Plan, to fund a required Reserve Fund for the bonds, and to pay the costs of issuing the bonds. Specifically, it is anticipated that the Improvement Area No. 1 bonds would finance improvements to the South Neighborhood Park and landscaping of Camino Del Sur and San Dieguito Road. The Improvement Area No. 4 bonds are anticipated to finance improvements to El Camino Real from Derby Downs Road to San Dieguito Road, improvements to the Community Park located on Carmel Valley Road east of Black Mountain Road, and certain offsite water and sewer improvements. All of the improvements to be financed will ultimately be owned by the City.

**FISCAL IMPACT:**

None to the City. All costs related to financing the improvements and all incidental expenses related to forming the District and Improvement Areas therein, issuing the bonds, and administering Community Facilities District No. 2 (Santaluz) will be borne by the District.

Frazier/Vattimo/CW

FILE LOCATION: MEET

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

MOTION BY PETERS 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-205: Status Report from the Pension Reform Committee.

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-743) ADOPTED AS RESOLUTION R-298819

Accepting the Report of the Pension Reform Committee to the City Council on the status of the Committee’s work.

**CITY MANAGER SUPPORTING INFORMATION:**

On September 9, 2003, the Mayor and City Council established the Pension Reform Committee (Committee) to address concerns about the current unfunded liability of San Diego City Employees Retirement System (SDCERS) and review the scope and depth of audits to be performed on the Retirement System. The Mayor and City Council established the following objectives for the Committee:

1. Report back to the City Council no later than 120 days from the date appointments are confirmed.
2. After reviewing and considering the scope and depth of audit activity currently conducted by SDCERS, conduct any additional or supplemental independent audits, studies, or investigations deemed necessary and appropriate.
3. Provide recommendations to address any unfunded liability problems of the system.
4. Examine how the existing pension system has performed compared to other similar systems, including examinations of action other systems have taken to address funding shortfall problems, such as issuance of pension obligation bonds.
5. Examine whether changes should be made to the existing pension system.
6. Examine whether the make-up and representative constitution of the Retirement Board should be restructured.
7. Examine whether the system should be changed from a defined benefit plan to a defined contribution plan for new employees.
8. Examine whether the City should join the California Public Employees Retirement System or any other retirement system.
9. Make any other recommendations as appropriate.

The Committee held its first meeting on October 1, 2003 and developed a weekly meeting schedule. A special web site was set-up on the City of San Diego's web site to provide the public with minutes, agendas and background information on the Committee.

Today's action is a report from the Chairperson of the Committee, April Boling, on the status of the Committee's work over the first 120 days.

Frazier/MB

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:12 p.m. – 6:24 p.m.)

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

**ITEM-206: REFERRED TO CLOSED SESSION ON JANUARY 27, 2004**

Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8:

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 City 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.

**The public hearing was held and Mayor Murphy referred the item to Closed Session.**

FILE LOCATION: MEET (61)

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

ITEM-250: **Notice of Pending Final Map Approval – Hidden Trails, Unit 2.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “Hidden Trails, Unit 2” (T.M. No. 89-0739), a copy of which is available for public viewing at the office of the San Diego City Clerk. Said project is located in the Otay Mesa Community Plan Area, northeasterly of I-805 and SR 905 in Council District 8. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-S400: Fran Spear Day.

**COUNCILMEMBER LEWIS’ RECOMMENDATION:**

Adopt the following resolution:

(R-2004-735) ADOPTED AS RESOLUTION R-298820

Recognizing Fran Spear for thirty-six years of dedication and service to constituents in the City of San Diego;

Proclaiming January 26, 2004 to be "Fran Spear Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:19 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-S401: Naming Areas Within the New PETCO Park.

(Centre City Community Area. Districts-2 and 8.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-751) ADOPTED AS RESOLUTION R-298821

Consenting to the following names for specific areas of PETCO Park: 1) "Sony Dugout Club," 2) "Omni Hotel Premier Club," and 3) "Toyota Terrace Club Level";

Authorizing and directing the City Manager to take such other and further necessary or appropriate actions, and execute any necessary or appropriate documents, to effectuate the intent and purpose of this resolution.

**CITY MANAGER SUPPORTING INFORMATION:**

In November of 1998, the electorate of the City, by an almost 60% margin, approved Proposition C, which authorized and directed the City Manager to execute on behalf of the City the Memorandum of Understanding (MOU) for the Downtown Ballpark and Redevelopment Project. The MOU provided that the San Diego Padres would hold "naming rights" to the new downtown

ballpark; the Padres would be able to negotiate with and select a naming rights partner for the ballpark, and areas within, select the name that would be attached to the new ballpark, and areas within, and retain all revenue from such an agreement. The MOU provided, however, that any name to be associated with the new ballpark would not be a cause for embarrassment to the City, and provided that the City would have the right to consent to the proposed name for the new ballpark. The City's consent cannot be unreasonably withheld or delayed. The City has no approval or consent rights regarding the terms of the agreement providing for the naming rights between the Padres and the naming rights partners.

The Padres have reached agreement with three companies for naming rights to sections within the new PETCO Park:

- 1) The Omni Hotel Premier Club is located on the main concourse/field level between home plate and third base. It will feature a private lounge and restaurant that offers fine dining throughout the game, table seating and an open-air terrace overlooking the playing field.
- 2) The Sony Dugout Club will be located on the street/service level of PETCO Park directly behind home plate. It will feature a bar, restaurant and lounge that offers fine dining throughout the game and views into the Padres batting cage.
- 3) The Toyota Terrace Club Level includes the entire Club Level of PETCO Park which includes, among other things, seating, concession, and circulation areas.

Herring/LC

FILE LOCATION: MEET (64)

COUNCIL ACTION: (Time duration: 2:21 p.m. – 4:24 p.m.)

MOTION BY ZUCCHET 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.

NON-DOCKET ITEMS:

None.

**ADJOURNMENT:**

The meeting was adjourned by Mayor Murphy at 6:28 p.m. in honor of the memory of:

Roy “Jamal” Spencer III, as requested by Council Member Lewis; and  
Andres de Jesus Mera, as requested by Council Member Frye.

FILE LOCATION: AGENDA

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