

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, MAY 4, 2004  
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 10:16 a.m.

Mayor Murphy wished to congratulate San Diego's Police Officers for their very impressive performance last week-end as twenty officers won the 120 mile Baker to Las Vegas Challenge Cup Relay Race. Mayor Murphy announced that this was the second year in a row that our team won it all, competing against more than 200 teams not only from the United States, but as far away as Germany and Australia.

The meeting was recessed by Mayor Murphy at 11:37 a.m. to convene the Redevelopment Agency. Mayor Murphy reconvened the regular meeting at 11:49 a.m. with Council Member Peters not present.

The meeting was recessed by Mayor Murphy at 12:04 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:11 p.m. with Council Member Peters not present. Mayor Murphy recessed the meeting at 3:11 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:20 p.m. with Council Member Peters not present. Mayor Murphy recessed the meeting at 4:40 p.m.

**ATTENDANCE DURING THE MEETING:**

- (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

Clerk-Abdelnour (pr/er)

FILE LOCATION: MINUTES

ITEM-1: 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-not present

ITEM-30: Approval of Council Minutes.

**TODAY'S ACTION IS: APPROVED**

Approval of Council Minutes for the meetings of:

04/05/2004 - Adjourned

04/06/2004 – Adjourned

FILE LOCATION: MINUTES

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

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

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Comment by Don Stillwell wishing to have prayer at each Council Meeting.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:53 a.m. – 10:55 a.m.)

PUBLIC COMMENT-2:

Comment by Terese Ghio regarding biotechnology, and that environmental fees are doubling in California.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:55 a.m. – 10:59 a.m.)

PUBLIC COMMENT-3:

Comment by Linda Ivor regarding security and public access to personal property.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-4:

Comment by Ian Trowbridge regarding San Diego Data Processing and Council Member Madaffer.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:01 a.m. – 11:05 a.m.)

**PUBLIC COMMENT-5:**

Comment by Carlos Ramon Godina regarding his suggestion for a “San Diego Dream Park.”

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:05 a.m. – 11:08 a.m.)

**PUBLIC COMMENT-6:**

Comment by Ron Boshun regarding Council actions.

FILE LOCATION: AGENDA

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

**PUBLIC COMMENT-7:**

Comment by Dan Coffey regarding First Amendment rights and candidates for City Attorney.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:11 a.m. – 11:15 a.m.)

**PUBLIC COMMENT-8:**

Comment by Stanton Summer regarding “Women’s Suffrage.”

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:15 a.m. – 11:18 a.m.)

**PUBLIC COMMENT-9:**

Comment by Steve Willard regarding “Old Police Headquarters Day” and wishing to thank Council for proclaiming that.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:18 a.m. – 11:20 a.m.)

**PUBLIC COMMENT-10:**

Comment by James Hartline regarding his efforts to bring churches into Hillcrest to help people.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:20 a.m. – 11:22 a.m.)

**PUBLIC COMMENT-11:**

Comment by Richard Rider regarding pensions and the FY 2005 City budget.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:22 a.m. – 11:26 a.m.)

**PUBLIC COMMENT-12:**

Comment by Gregorie-Hedgley Garber regarding the expense of parking meters.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:26 a.m. – 11:27 a.m.)



COUNCIL COMMENT:

COUNCIL COMMENT-1:

Comment by Council Member Lewis wishing to announce that his 4<sup>th</sup> District Youth Advisory Board will be sponsoring a job faire Thursday, May 6, 2004, from 2:00 p.m. to 5:00 p.m. at the Martin Luther King Recreation Center, and that the event is free for job seekers and employers.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:27 a.m. – 11:28 a.m.)

COUNCIL COMMENT-2:

Comment by Council Member Madaffer wishing to address public comments that are directed at just one Council Member, and that the Permanent Rules of the City Council, Rule 8, Section D, prohibits remarks against any one member; instead they should be addressed to the Council as a whole.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:28 a.m. – 11:32 a.m.)

COUNCIL COMMENT-3:

Comment by Council Member Inzunza addressing Mayor Murphy that he would be sending a memo suggesting Non-Agenda Comment be docketed at the end of the Council Session to allow more time for the public who come to Council perhaps once or twice a year, and speak to important issues that are docketed which may affect them directly.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:32 a.m. – 11:35 a.m.)

**CITY MANAGER COMMENT:**

None.

**CITY ATTORNEY COMMENT:**

None.

\* ITEM-50: Second Amendment to the Office Lease Agreement for the Family Justice Center at 707 Broadway.

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2004-131) INTRODUCED, TO BE ADOPTED ON MONDAY, MAY 17,  
2004

Introduction of an Ordinance authorizing the City Manager to execute the Second Amendment to the Office Lease with 7<sup>th</sup> & Broadway Partners, LLC; 901 7<sup>th</sup> Avenue Partners, LLC; and 707 Weber, LLC; for space at 707 Broadway Tower;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$277,881.92 from the Office Space Program Budget, Fund No. 100, Dept. 601, for rent and utility charges from the FY 2005 Budget, contingent upon approval of the FY 2005 Budget by the Mayor and Council.

**CITY MANAGER SUPPORTING INFORMATION:**

The City's Family Justice Center has been leasing space at 707 Broadway since October 1, 2002 on floors 5, 6, and 7. Recently, the second floor became available to lease. The Family Justice Center is now in partnership with Children's Hospital and Childhelp USA which will allow the Center to provide necessary services to the Children arriving at the Family Justice Center on the Second floor. In addition, Childhelp USA will contribute \$5,000 per month during the lease term to help cover space costs on the second floor. The Family Justice Center will be extending the term of its existing space and expanding into the second floor under the following basic terms:

**TERM:** The existing term will be extended approximately 2.5 years expiring March 31, 2010. Occupancy for the expansion space on the second floor will commence July 1, 2004. Base rent will start October 1, 2004 which will provide the City with three months of free rent.

**RENT:** \$1.60 per square foot or \$19,692.80 per month in base rent. This rental rate is below market as compared to similar space in the area that is leasing at approximately \$1.75 per square foot. The base rent for the expansion space will increase approximately 3% per year.

**UTILITY COSTS:** \$18,215.84 per year.

**OPERATING EXPENSES:** \$4,430.88 per year.

**TENANT IMPROVEMENT OVERAGE:** \$40,000 – one time expense. The Landlord will pay \$369,240 toward the tenant improvements.

**PARKING RENT:** \$38,000 per year.

**USE:** Office space for the Family Justice Center providing public service to families and children with domestic violence issues.

**SIZE:** Expansion space is approximately 12,308 square feet of office space.

**FISCAL IMPACT:**

\$277,811.92 will be paid from the Office Space Program Budget, Fund 100, Dept. 601 for FY 2005. This is contingent upon City Council approval of the FY 2005 Budget.

Herring/Griffith/DLM

Aud. Cert. 2500001.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:43 a.m.)

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

ITEM-51: California Energy Commission Energy Efficiency Financing for General Fund Facility Improvements.

(Clairemont Mesa, North Park, Tierrasanta, Linda Vista, Kearny Mesa, Carmel Valley, Allied Gardens, City Heights, Navajo, Pacific Beach, Rancho Penasquitos, Oak Park, Skyline-Paradise Hills, Golden Hill, and Balboa Park Community Areas. Districts-1, 2, 3, 4, 6, 7, and 8.)

**CITY MANAGER’S RECOMMENDATION:**

Introduce the following ordinance:

(O-2004-134) INTRODUCED, TO BE ADOPTED ON MONDAY,  
MAY 17, 2004

Introduction of an Ordinance authorizing the City Manager, to apply for, enter into, conduct negotiations for, and execute and comply with all requirements for a fifteen-year loan agreement with the California Energy Commission in the amount of \$2,230,000 at a rate of 3.95% interest, to implement energy efficiency improvements, under the terms and conditions set forth in the Energy Conservation Assistance Account Loan Agreement No. 023-03-ECB;

Authorizing the City Auditor and Comptroller to establish a special interest-bearing fund for the above loan and to expend funds as directed by the administering department;

Authorizing and directing the City Auditor and Comptroller, in accordance with the Annual Appropriation Ordinance, to amend the Fiscal Year 2004 Capital Improvement Program budget to add CIP-37-017.0, Annual Allocation-City Facility Energy Improvements;

Authorizing and directing the City Auditor and Comptroller to increase CIP-37-017.0, Annual Allocation-City Facility Energy Improvements, by the amount of \$2,230,000;

Authorizing the City Auditor and Comptroller contingent upon receipt of a fully executed loan agreement, to appropriate and expend an amount not to exceed \$2,230,000 from CIP-37-017.0, Annual Allocation-City Facility Energy Improvements;

Authorizing the expenditure of an amount not to exceed \$300,000 from the Capital Outlay Revolving Fund No. 30245, Department 3245, Organization Number 102, to provide an advance to reimbursable loan funds from the California Energy Commission for the Capital Improvement Program costs in connection with facility energy improvements.

**CITY MANAGER SUPPORTING INFORMATION:**

On March 19, 2003, Mayor Murphy and Rules Committee voted 5-0 to accept the report and directed the City Manager to review and return to a future Rules Committee meeting with a response to pursuing a solar bond measure (between 2 to 4 million dollars), to fund the installation of photovoltaics and for the installation of energy efficiency measures at city owned facilities. This action was prompted by a memorandum drafted by Councilwoman Donna Frye and Councilman Michael Zucchet dated February 27, 2003 – “Next Steps for Pursuing Energy Independence and Solar Power”.

As directed by Rules Committee, Energy Conservation and Management Division arranged for State funded energy audits on 19 general fund facilities. Identified energy projects were packaged and submitted to the California Energy Commission in October 2003 for review and loan approval.

On January 14, 2004, the California Energy Commission (CEC) approved a loan in the amount of \$2.23 million for the purpose of installing energy efficiency equipment at several General Fund facilities. These facilities include ranch libraries, police substations and swimming pools throughout the City of San Diego (Attachment A). The energy measures approved by the CEC include the installation of lighting and lighting controls, daylighting, HVAC, new pool pumps, photovoltaic (solar panels) and co-generation systems.

Disbursement of the loan funds is on a reimbursement basis; therefore, an advance of \$300,000 from the Capital Outlay Revolving Fund will allow installation of energy efficiency equipment to commence. The Capital Outlay Revolving Fund is to be repaid with funds reimbursed by the CEC.

The loan requires that the energy efficiency measures provide a simple pay back of not more than 10 years. The loan is offered at a 3.95% interest rate to be paid back over a 15-year period. The work is anticipated to begin in May 2004 and be completed in August 2005, with the first loan payment due in December 2006. Semi-annual debt repayments of \$110,068 will be derived from annual aggregate kilowatt hour savings from each facility. When the projects are completed, the aggregate savings from these facilities are projected to be more than 1.8 million kilowatt hours per year with an anticipated savings of \$304,000 annually.

These projects will help reduce the City's backlog of General Fund deferred maintenance, The Energy Conservation and Management Division plans to utilize City forces from Facilities Division to perform HVAC and lighting retrofits, thereby providing additional benefit to the General Fund. These components of the projects will reduce proximately \$957,000 in labor and equipment cost from the General Fund deferred maintenance backlog, with the remaining \$1.27 million allocated for the design and installation of approximately 190 kilowatts of photovoltaics and 90 kilowatts of co-generation at several General Fund facilities.

**FISCAL IMPACT:**

The total cost to the City for the proposed energy efficiency improvements, renewable energy and self-generation systems, is \$3,359,277 including financing cost. As a part of this loan package, the projects will be financed by bonds secured by the California Energy Commission for \$2,230,000 at an interest rate of 3.95% over the life of the loan, 15 years, and will be paid back through energy savings budgeted within City wide programs.

Loveland/Heap/JJH

Aud. Cert. 2400994.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:45 a.m. – 10:52 a.m.)

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

\* ITEM-100: Morena Vista Underground Utility District.

(Bay Park Community Area. Districts-2 and 6.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1108) ADOPTED AS RESOLUTION R-299153

Amending the Fiscal Year 2004 Capital Improvement Program Budget for CIP-37-028.0, Annual Allocation – Undergrounding of City Utilities in Fund 10252, North Bay Redevelopment CIP Contributions by increasing the budget amount by \$391,806;

Authorizing the appropriation and expenditure of an amount not to exceed \$391,806 from CIP-37-028.0, Annual Allocation – Undergrounding of City Utilities Fund 10252, North Bay Redevelopment CIP Contributions, for the purpose of providing funds for administering the district, minor City force work, replacement of existing street lights and other related work, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures 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.

**CITY MANAGER SUPPORTING INFORMATION:**

On February 14, 2003, the Redevelopment Agency/City Council terminated an existing Cooperation Agreement (RR-292752/D-03107/RO-0310) with MTDB, for undergrounding of power lines at MTDB's Morena Vista site, which provided \$450,000 for up front costs. From this, \$58,194 was paid to MTDB to pay SDG&E for design related expenses leaving a balance of \$391,806.

Also on February 14, 2003, the City Council re-allocated \$1,855,000 from other underground conversion projects towards the undergrounding of the power lines at the Morena Vista site. Additionally, on November 14, 2003, the City Council as part of the 2004 Annual Allocation of underground conversion projects, allocated an additional \$305,000 towards the undergrounding of the Morena Vista site, bringing the total allocation for this project to \$2,610,000 (\$2,160,000 from City's undergrounding surcharge fund and \$450,000 from the Redevelopment Agency).

This project is being managed by the City's underground conversion program and thus, remaining \$391,806 set aside for undergrounding by the Redevelopment Agency needs to be transferred to the City's CIP project fund.

**FISCAL IMPACT:**

None.

Loveland/Belock/AO

Aud. Cert. 2401015.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:43 a.m.)

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

\* ITEM-101: Veteran Appreciation Month.

**COUNCILMEMBER LEWIS' RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1096) ADOPTED AS RESOLUTION R-299154

Commending all veterans for the honorable loyalty they have given to protect and serve our country and all Americans;

Proclaiming May 2004 to be "Veteran Appreciation Month" in the City of San Diego.



FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:43 a.m.)

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

\* ITEM-102: Water Easement Vacation within Lot 1 of Linda Vista Heights Map No. 3576.

(Linda Vista Community Area. District-6.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1100) ADOPTED AS RESOLUTION R-299155

Vacating the water easement located within Lot 1 Linda Vista Heights Map No. 3576 to unencumber this property under the procedure for the summary vacation of public service easements, Section 8330 et seq. of the California Streets and Highways Code.

**CITY MANAGER SUPPORTING INFORMATION:**

City Council action is requested to vacate a portion of a water easement within Lot 1 of Linda Vista Heights Map No. 3576 as shown on Engineering Drawing No. 19638-2-B. This site is located in the Linda Vista Community Plan area, between Linda Vista Road and I-163 southwesterly of I-805, in Council District 6.

The easement being vacated is on private property and was acquired at no cost to the City. The applicant has obtained a building permit with new building design which required the re-location of a water main. This re-location, as shown on Engineering Drawing No. 31428-D, has been completed, making this existing easement unnecessary. There is no present or anticipated future use for the easement in its present location. A water easement of approximately equal value as shown on Engineering Drawing No. 19638-1-B has been acquired. Staff has reviewed the request and recommends approval of the vacation.

**FISCAL IMPACT:**

None.

Ewell/Broughton/GRB

FILE LOCATION: DEED F-9724

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:43 a.m.)

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

ITEM-103: FY 2005-FY 2009 Five-Year Consolidated Plan.

(See San Diego Housing Commission Reports HCR04-021 and CCR04-003 and memorandum from Carrol M. Vaughan dated April 15, 2004 (CCRO4-003 and the memorandum were not available at the committee).)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-1041) ADOPTED AS RESOLUTION R-299169

Approving the City's federally required Fiscal Year 2005-2009 Five-Year Consolidated Plan, which includes the first year "Action Plan" and the Citizen Participation Plan; and authorizing the Chief Executive Officer of the Housing Commission to submit the Plan, on behalf of the City, to the U.S. Department of Housing and Urban Development for its review and approval.

**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**

On 3/24/2004, LU&H voted 3 to 0 to adopt the recommendation of the San Diego Housing Commission. (Councilmembers Peters, Frye, and Inzunza voted yea. Councilmembers Zucchet and Lewis not present.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:12 p.m. – 2:24 p.m.)

MOTION BY ATKINS TO ADOPT WITH THE FOLLOWING DIRECTIONS: DIRECT THE PLANNING DEPARTMENT, THE HOUSING COMMISSION, AND THE HOMELESS COORDINATOR TO WORK TOGETHER TO COMPILE A REPORT WITH SPECIFIC INFORMATION IDENTIFYING THE RURAL HOMELESS, THE AVAILABILITY OF PROPOSITION A FUNDS FOR MIGRANT AND FARM WORKER HOUSING, HOW THE PROPOSITION A FUNDS ARE BEING UTILIZED IN SAN DIEGO COUNTY, WHO IS UTILIZING THE FUNDS FROM THE SAN DIEGO REGION, AND WHAT OPPORTUNITIES EXIST FOR ACCESSING THE FUNDS. PROVIDE THE PORT TO THE LAND USE AND HOUSING COMMITTEE ON A REGULAR BASIS. Second by Inzunza. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-104: Mission Trails Park Property Donation.

(Mission Trails Community Area. District-7.)

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-96) ADOPTED AS RESOLUTION R-299156

Authorizing the City Manager to accept a grant deed from the Sycamore Landfill Company to the City of San Diego conveying fee title to approximately eight acres of property, located within the northeast boundary of Mission Trails Regional Park (the Grant Deed);

Accepting and thanking the Sycamore Landfill Company for its generous donation.

**CITY MANAGER SUPPORTING INFORMATION:**

Over the years the City has had the opportunity, through various acquisitions and donations, of increasing the size of Mission Trails Regional Park to over 6500 acres. The most recent increase occurring this past December when the Zoological Society deeded 266 acres (approximately ½ of Fortuna Mountain) to the City.

This action today is requesting authority to accept approximately eight acres of land within the Mission Trails Regional Park boundary being donated by the Sycamore Landfill Company. The property is located in the eastern portion of the park, north of Kumeyaay Lake.

**FISCAL IMPACT:**

None. Donation.

Herring/Griffith

FILE LOCATION: DEED F-9725

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:43 a.m.)

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

\* ITEM-105: Settlement Agreement in Gleason v. San Diego City Employees Retirement System, Et Al.

(See memorandum from the City Attorney dated 4/23/2004.)

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1082) RETURNED TO THE CITY ATTORNEY

Authorizing and directing the City Manager to execute the settlement agreement; adopting the payment schedule set forth in the settlement agreement to settle each and every claim against the City of San Diego, its agents and employees, in Gleason v. San Diego City Employees Retirement System and City of San Diego, San Diego Superior Court Case No. GIC 803779;

Authorizing and directing the City Auditor and Comptroller to make such future payments to the San Diego City Employees Retirement System as outlined in the settlement agreement;

Authorizing and directing the City Manager to take such and further actions as may be necessary or appropriate to implement the intent and purposes of this resolution.

**SUPPORTING INFORMATION:**

This constitutes the complete and final settlement of the claims asserted by James Gleason and the Plaintiff class asserted against the City of San Diego, its agents and employees, as alleged in the complaint filed in the Gleason v. San Diego City Employees Retirement System and City of San Diego, San Diego Superior Court Case No. GIC 803779. Payments to the Retirement System shall be authorized each applicable year as part of the annual budget.

Ewell/Grissom/CSM

Aud. Cert. 2401010.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:43 a.m.)

CONSENT MOTION BY INZUNZA TO RETURN THIS ITEM TO THE CITY ATTORNEY AT HIS REQUEST FOR FINALIZATION OF THE DOCUMENTS.  
Second by Madaffer. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-106: Greater San Diego Business Association 25<sup>th</sup> Anniversary Day.

**MAYOR MURPHY’S AND DEPUTY MAYOR ATKINS’ RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1130) ADOPTED AS RESOLUTION R-299148

Recognizing the 25<sup>th</sup> anniversary of the Greater San Diego Business Association and commending the association for its outstanding service to increase the visibility, growth, and success of LGBT-owned and LGBT-friendly businesses in the San Diego region;

Proclaiming April 29, 2004 to be “Greater San Diego Business Association 25<sup>th</sup> Anniversary Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:43 a.m.)

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

\* ITEM-107: Patricia J. Marn Day.

**DEPUTY MAYOR ATKINS’ RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1131) ADOPTED AS RESOLUTION R-299158

Recognizing and thanking Patricia J. Marn for her 28 years of service to the people of “America’s Finest City”;

Proclaiming April 23, 2004 to be “Patricia J. Marn Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:43 a.m.)

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

ITEM-200: 2004 Salary Setting Commission's Recommendation.

(See letter from the Salary Setting Commission dated 2/3/2004.)

**SALARY SETTING COMMISSION'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-871 REV.) ADOPTED AS AMENDED AS RESOLUTION R-299170

Adopting the determination and recommendations of the Salary Setting Commission, as contained in its letter of recommendation to the Mayor and Council, dated February 3, 2004;

Directing the City Attorney to incorporate the Commission's recommendations in the annual salary ordinance, pursuant to Section 41.1 of the City Charter.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:48 p.m. – 3:20 p.m.)

MOTION BY INZUNZA TO ADOPT THE RESOLUTION AS AMENDED CONSISTENT WITH THE ALTERNATIVE EXPRESSED IN THE SALARY SETTING COMMISSION'S RECOMMENDATION TO DECLINE THE RECOMMENDED SALARY INCREASE FOR FISCAL YEAR 2005 AND DEFER CONSIDERATION OF THE COMMISSION'S RECOMMENDATION UNTIL THE CITY COUNCIL CONSIDERS A SALARY ORDINANCE FOR FISCAL YEAR 2006. Second by Zucchet. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-201: Agreement with Sharp Rees-Stealy Medical Group for Industrial Medicine Services to City Employees.

(See City Manager Report CMR-04-045.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-898)            RETURNED TO THE CITY MANAGER

Authorizing the City Manager to execute an agreement with the Sharp Rees-Stealy Medical Group, to provide industrial medical services to City employees for a period of two years with an option to renew for three additional one-year periods;

Authorizing the expenditure of an amount not to exceed \$2,363,000 per year from Workers' Compensation Fund No. 60029, contingent upon the City Council approving the fiscal years 2005 and 2006 budgets, for the purpose of providing funds for the execution of the above agreement.

Aud. Cert. 2400832.

FILE LOCATION:            MEET

COUNCIL ACTION:            (Time duration: 10:34 a.m. – 10:43 a.m.)

CONSENT MOTION BY INZUNZA TO RETURN THIS ITEM TO THE CITY MANAGER AT HIS REQUEST TO ALLOW FOR TIME TO REEVALUATE ADDITIONAL INFORMATION. Second by Madaffer. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-250: **Notice of Pending Final Map Approval – Pacific Highlands Ranch Unit No. 7.**

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 “Pacific Highlands Ranch Unit No. 7” (T.M. No. 41-0185), located northwesterly of Del Mar Heights Road and Pacific Highlands Ranch Parkway in the Pacific Highlands Ranch Community Planning Area in Council District 1, a copy of which is available for public viewing at the Office of the San Diego City Clerk. 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-251: **Settlement of Personal Injury and Property Damage Claim of Phillip K. Ngo.**

(R-2004-1047)

Adopted as Resolution R-299103.

A Resolution approved by the City Council in Closed Session on Tuesday, April 19, 2004, by the following vote: Peters-not present; Zucchet-yea; Atkins-yea; Lewis-yea; Maienschein-not present; Frye-yea; Madaffer-not present; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the sum of \$62,950.74 in the settlement of each and every claim against the City of San Diego, its agents and employees, resulting from personal injury and property damage claim for Phillip K. Ngo which occurred on February 24, 2003;

Authorizing the City Auditor and Comptroller to issue one check in the amount of \$52,500 made payable to Phillip K. Ngo and his attorney, Maxwell C. Agha, in full settlement of all claims.

Aud. Cert. 2400985.

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

**ITEM-252: SUBMISSION OF BALLOT PROPOSALS**

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then 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 November 2, 2004 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	5/28/2004	158	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee.

Wednesday	6/16/2004	139	Rules Committee review of ballot proposals.
Monday	6/21/2004	134	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee.
Monday	6/28/2004	127	Council adopts propositions for ballot; directs
	through	to	City Attorney to prepare ordinances.
Monday	7/19/2004	106	
Monday	7/26/2004	99	Council adopts ordinances prepared by City Attorney.
Friday	8/06/2004	88	Last day for City Clerk to file with Registrar of Voters all elections material.
Thursday	8/19/2004	75	Last day to file ballot arguments with City Clerk.

If you have questions, please contact the Office of the City Clerk at (619) 533-4025.

ITEM-330: Two actions related to Proposed Rezonings to Remove Areas within the City of San Diego from the Transit Area and Residential Tandem Parking Overlay Zones.

(Continued from the meeting of March 30, 2004, Item 333, at the request of the City Council, due to lack of time.)

Matter of approving, conditionally approving, modifying or denying proposed rezonings to remove areas within the City of San Diego from the Transit Area and Residential Tandem Parking Overlay Zones.

(See City Manager Report CMR-04-060. All Community Plan Areas. Districts-All.)

**NOTE:** Hearing Open. No testimony taken on March 30, 2004.

**TODAY'S ACTIONS ARE:**

Introduce the following ordinances:

Subitem-A: (O-2004-119 Cor. Copy 2) CONTINUED TO TUESDAY,  
MAY 11, 2004

Introduction of an Ordinance deleting property located in the City of San Diego from the Residential Tandem Parking Overlay Zone as defined in Chapter 13, Article 2, Division 9, of the San Diego Municipal Code and the transit area overlay zone as defined in Chapter 13, Article 2, Division 10 of the San Diego Municipal Code, and repealing Ordinance No. O-18911 (New Series), adopted January 9, 2001.

Subitem-B: (O-2004-118 Cor. Copy 2) CONTINUED TO TUESDAY,  
MAY 11, 2004

Introduction of an Ordinance amending Chapter 13, Article 2, Division 9, by amending Section 132.0902; and Chapter 13, Article 2, Division 10, by amending Section 132.1002, pertaining to the Residential Tandem Parking Overlay Zone and the Transit Area Overlay Zone, respectively.

#### **LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION**

On 06/04/03, LU&H voted 4-0 to direct the City Manager to move expeditiously to bring the issue of rescinding or amending the Transit Area Overlay Zone and Residential Tandem Parking Overlay boundaries to City Council, as previously approved by the Land Use and Housing Committee on September 4, 2002. (Councilmembers Peters, Atkins, Lewis, Frye voted yea. Councilmember Zucchet not present.)

#### **OTHER RECOMMENDATIONS:**

Planning Commission on October 16, 2003 voted 7-0 to approve; was opposition.

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

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

On January 22, 2002, and again on July 23, 2002, the Community Planners Committee voted recommended the rescission of the January 2001 amendments to the Transit Area Overlay Zone and the Residential Tandem Parking Overlay Zone.

Clairemont-Mesa Planning Committee  
Encanto Neighborhoods Community Planning Group

**SUPPORTING INFORMATION:**

In January 2001, the City Council approved amendments to the Transit Overlay Zone (TAOZ) and Residential Tandem Parking Overlay Zone (RTPOZ) as part of the Second Update to the Land Development Code. In January 2002, the Community Planners Committee (CPC) adopted a resolution addressing their belief that these overlay zones were illegally adopted and that inappropriate standards were used, and requested that the Land Use and Housing Committee (LU&H) take several actions related to these amendments.

On June 12, 2002, LU&H continued the item and asked staff to return on September 4, 2002, with further analysis on the consistency of the overlay zones with the community plans and where these overlay zones should be applied. LU&H also directed staff to take the issue back to CPC prior to their September 2002 meeting. On July 23, 2002, CPC heard the item and reiterated their previous concerns. They also requested that the overlay zone amendments be rescinded and that a new process be established to revise these zones. Staff returned to LU&H on September 4, 2002, with an information report detailing the application of the TAOZ/RTPOZ and its relation to the community plans and the draft Strategic Framework analysis and recommendations.

On June 4, 2003, LU&H recommended that the amendment or repeal of the overlay zones be added to the Land Development Code Update Fiscal Year 2003 Work Program. Due to staff constraints during Fiscal Year 2003 this issue was carried over into this fiscal year's work program.

Most recently, the Planning Commission reviewed the proposed project, on October 16, 2003, and recommended that the City Council deny the request and direct staff to include review of these overlay zones as part of the Mobility Element. The Planning Commission also directed staff to bring this item to the Manager's Parking Task Force for their input and stipulated that during review of these issues under the Mobility Element, staff should consider transit locations, the relationship between transit and land use, keeping affected community groups involved and that regional implications and implementation be a consideration.

This proposal was presented to the Manager's Parking Task Force on November 17, 2003, as an information item.

**FISCAL IMPACT:**

Staff was directed to work on this item as part of the Land Development Code Implementation work program for Fiscal Year 2004 by the Land Use and Housing Committee as its meeting on July 23, 2004 (CMR No. 03-168). The staffing costs and fiscal impact to prepare the proposed regulations are part of the Land Development Code Implementation work program.

Ewell/Christiansen/SDD

FILE LOCATION: SUBITEMS A & B: LUP-Proposed Rezoning to Remove Areas within the City of San Diego from the Transit Area and Residential Tandem Parking Overlay Zones (65)

COUNCIL ACTION: (Time duration: 3:20 p.m. – 4:33 p.m.)

Testimony in opposition by Dave Potter, Teresa Quiroz, Maryann Green, Reynaldo Pisano, Al Strohlein, and Jim Varnador.

Testimony in favor by Robin Monroe, David Geiser, and Kevin Reese.

MOTION BY FRYE TO CONTINUE TO TUESDAY, MAY 11, 2004, TO GIVE THE CITY ATTORNEY AN OPPORTUNITY TO AMEND THE ORDINANCE TO RESCIND THE TRANSIT AREA AND RESIDENTIAL TANDEM PARKING OVERLAY ZONES THAT WERE ADDED IN DECEMBER 2000 AND FINALIZED IN JANUARY 2001, WITH THE EXCEPTION OF THE FOLLOWING: NAVAJO ALVARADO CANYON ROAD EAST OF MISSION GORGE, EASTERN MARKET PLACE AT THE GROVE, NAVAJO LAKE MURRAY BOULEVARD FROM JACKSON TO NAVAJO ROAD, AND NAVAJO ROAD FROM LAKE MURRAY TO FANITA DRIVE. THE FOLLOWING DIRECTIONS WERE ADDED AT THE REQUEST OF COUNCIL MEMBER ATKINS: SOME NEIGHBORHOODS THAT ARE ALREADY PARKING DEFICIENT SHOULD BE EXEMPT FROM THE TAOZ. STAFF SHOULD WORK WITH THE CPC COMMUNITY PLANNING COMMITTEE, BUSINESS IMPROVEMENT DISTRICTS, AND THE MANAGER'S PARKING ADVISORY WORKING GROUP TO DEVELOP STANDARDS AND MEASURES BY WHICH TO DETERMINE WHICH NEIGHBORHOODS ARE PARKING DEFICIENT FOR THE PURPOSES OF THIS ORDINANCE AND RETURN TO THE CITY COUNCIL AND LU&H COMMITTEE WITH A PROPOSAL WITHIN THE NEXT CALENDAR YEAR. Second by Madaffer. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-331: North Park Condominiums.

Matter of approving, conditionally approving, modifying or denying Tentative Map, Site Development Permit and Encroachment Maintenance Removal Agreement for a 224-unit condominium development including underground parking on a 2.06-acre site located on the south side of Lincoln Avenue between 30<sup>th</sup> & Ohio Streets in the CN-1 zone within the Mid-City Communities Planned District and North Park Redevelopment Project Area.

(MND 5787/TM No. 10175/SDP No. 10176/Encroachment Maintenance and Removal Agreement/PTS No. 5787. Greater North Park Community Plan Area. District-3.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the resolutions in subitems A and D; adopt the resolution in subitem B to grant the map and adopt the resolution in subitem C to grant the permit:

Subitem-A: (R-2004-1098)                      ADOPTED AS RESOLUTION R-299159

Adoption of a Resolution certifying that the information contained in the final Mitigated Negative Declaration LDR No. 5787, including any comments received during the public review process, has been reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline section 15162 would warrant any additional environmental review in connection with approval of the land use actions for the Project;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2004-1300)                      GRANTED MAP; ADOPTED AS RESOLUTION  
R-299160

Adoption of a Resolution granting or denying Tentative Map No. 10175, with appropriate findings to support Council action.

Subitem-C: (R-2004-1301) GRANTED PERMIT; ADOPTED AS  
RESOLUTION R-299161

Adoption of a Resolution granting or denying Site Development Permit No. 10176, with appropriate findings to support Council action.

Subitem-D: (R-2004-1120) ADOPTED AS RESOLUTION R-299162

Adoption of a Resolution authorizing and empowering to execute, for and on behalf of the City, an Encroachment Maintenance and Removal Agreement (Agreement) with Van Dorn Realty, or its successors in interest under substantially the same or similar terms and conditions as set forth in the Agreement, an executed copy of which will be on file in the office of the City Clerk, together with any reasonable necessary modifications or amendments thereto which do not increase project scope or cost and which the City Engineer shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement.

**OTHER RECOMMENDATIONS:**

Planning Commission on December 18, 2003, voted 6-0 to approve; no opposition.

Ayes: Lettieri, Schultz, Brown, Steele, Chase, Ontai  
Not present: Garcia

The Greater North Park Community Planning Group has recommended approval of this project.

**CITY MANAGER SUPPORTING INFORMATION:**

The proposed North Park Condominium project would provide a mixed-use development with a residential and a commercial component that would conform to the density and land use designation of the Greater North Park Community Plan. The proposed development would be consistent with the purpose and intent of the Mid-City Communities Planned District Ordinance and would comply with the applicable development regulations of the Land Development Code. The project would help to satisfy the increasing demand for new housing opportunities in the city's older neighborhoods and would designate ten percent of the units as affordable housing.

The project design includes vertical and horizontal articulations, varied roof lines and massing to



effect an appealing and compatible development. The proposed commercial element along 30<sup>th</sup> Street would be compatible with the existing commercial uses and consistent with the development pattern along the street. Stoops and open courtyards are designed into the two-level residential units along Lincoln Avenue and Ohio Street that should encourage and revitalize the pedestrian activity in and around the project site.

The project has been reviewed pursuant to the California Environmental Quality Act and a Mitigated Negative Declaration has been prepared to mitigate any potential impacts related to street noise on the residential units and paleontological resources during grading activities. The Greater North Park Community Planning Committee has reviewed and approved the project with recommendations for exterior finish materials and landscape treatments that have been incorporated into the final design. On December 18, 2003, the City of San Diego Planning Commission voted 6-0-0 recommending that the City Council approve the project.

Staff from the Development Services Department and the Planning Department reviewed the project pursuant to the applicable land use plans, policies and regulations for this type of development and concluded that the proposed project is consistent with Greater North Park Community Plan, Mid-City Communities Planned District Ordinance and the Subdivision Map Act. Staff believes the necessary findings to approve the project can be affirmed and recommends that the City Council approve the project.

**FISCAL IMPACT:**

All of the cost associated with processing this application are paid for by the applicant.

Ewell/Christiansen/JPH

**LEGAL DESCRIPTION:**

The 2.06-acre project site is located on the south side of Lincoln Avenue between 30<sup>th</sup> Street and Ohio Street in the Mid-City Communities Planned District, North Park Redevelopment Project Area, and Greater North Park Community Planning Area and is more particularly described as Lots 5-13, the northerly 20 feet of lot 14, the northerly 20 feet of Lot 33 and Lots 34-48 of Block 207 of the University Heights D'Hemecourt Map

FILE LOCATION: SUBITEMS A, B, C, & D: LUP-North Park  
Condominiums (65)

COUNCIL ACTION: (Time duration: 11:35 a.m. – 11:37 a.m.)

MOTION BY ATKINS TO ADOPT THE RESOLUTIONS TO GRANT THE MAP AND TO GRANT THE PERMIT. Second by Zucchet. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S500: National Association of Letter Carriers Day.

**COUNCILMEMBER FRYE’S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1152) ADOPTED AS RESOLUTION R-299163

Commending and thanking all of the letter carriers and volunteers who annually participate in making the food drive so successful;

Proclaiming May 8, 2004 to be “National Association of Letter Carriers Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:30 a.m. – 10:33 a.m.)

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

ITEM-S501: San Diego Police Officers’ Recognition Day.

**COUNCILMEMBER MADAFFER’S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1142) ADOPTED AS RESOLUTION R-299164

Honoring and recognizing the over 2,000 sworn police officers in the City of San Diego;

Proclaiming May 4, 2004 to be “San Diego Police Officers’ Recognition Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:30 a.m.)

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

\* ITEM-S502: Arthritis Awareness Month.

**MAYOR MURPHY’S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1135) ADOPTED AS RESOLUTION R-299149

Recognizing the efforts of the Arthritis Foundation, San Diego Area Chapter, to educate and help individuals and families affected by arthritis in our community;

Proclaiming May 2004 to be “Arthritis Awareness Month” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:43 a.m.)

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

ITEM-S503: San Diego Youth Pride Day.

**MAYOR MURPHY'S AND DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1140) ADOPTED AS RESOLUTION R-299150

Commending San Diego Youth Pride for their commitment to San Diego's lesbian, gay, bisexual, and transgender (LGBT) youth community and congratulating them on their second annual Youth Pride celebration;

Proclaiming May 1, 2004 to be "San Diego Youth Pride Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:48 p.m.)

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

\* ITEM-S504: Reappointments to the Sustainable Energy Advisory Board.

(See memorandum from Mayor Murphy dated 4/20/2004, with resumes attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1133) ADOPTED AS RESOLUTION R-299165

Council confirmation of the following reappointments by the Mayor, to serve as members of the Sustainable Energy Advisory Board, for terms ending March 1, 2006:

<u>NAME</u>	<u>CATEGORY</u>
Cecilia E. Aguillon	Undesignated
Robert J. Resley	San Diego Gas & Electric
Irene M. Stillings	San Diego Regional Energy Office
James M. Westfall	Labor Organization

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:43 a.m.)

CONSENT MOTION BY INZUNZA TO APPROVE THE REAPPOINTMENTS.  
Second by Madaffer. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-S505: Excusing Councilmember Maienschein from the May 5, 2004, Rules, Finance, and Intergovernmental Relations Committee Meeting.

**COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1147) ADOPTED AS RESOLUTION R-299166

Excusing Councilmember Brian Maienschein from attending the regularly scheduled May 5, 2004, Rules, Finance, and Intergovernmental Relations Committee meeting due to his unveiling of the San Pasqual Vision Plan.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:43 a.m.)

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

\* ITEM-S506: Asian Pacific Islander American Heritage Month.

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1153) ADOPTED AS RESOLUTION R-299167

Commending and thanking all the participants of the festival for sharing their rich traditions and cultural diversity with the residents of San Diego;

Proclaiming the month of May 2004 to be "Asian Pacific Islander American Heritage Month" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:43 a.m.)

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

ITEM-S507: Public Art Master Plan.

(Continued from the meeting of April 27, 2004, Item 332, Subitem C, at the request of Councilmember Atkins, to allow time for the City Attorney to finalize language in the ordinance.)

**TODAY'S ACTION IS:**

Introduce the following ordinance:

(O-2004-124 Cor. Copy 2) INTRODUCED AS AMENDED, TO BE  
ADOPTED ON MONDAY, MAY 17, 2004

Introduction of an Ordinance amending Chapter 2, Article 6, Division 7, of the San Diego Municipal Code by amending Section 26.0701, by renumbering and amending Section 26.0702 to 26.0703, Section 26.0703 to 26.0704, and Section 26.0705 to 26.0702, by adding new Section 26.0705, by retitling and amending Sections 26.0706 and 26.0707, and by adding new Sections 26.0708, 26.0709, 26.0710, and 26.0711, all relating to the Commission for Arts and Culture and the development of cultural and artistic resources in the City of San Diego.

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

On 3/17/2004, NR&C voted 5 to 0 to approve the City Manager's recommendations as follows:

- 1a. Advance the Public Art Master Plan, in concept, to City Council for approval.
- 1b. Direct the City Attorney to draft a Council Policy as applied to eligible Public Works projects to implement the program as outlined in this report, but waive the Council Policy as it applies to Public Works projects for Fiscal Year 2005.
- 1c. Direct the City Attorney to draft an Ordinance as applied to Private Development and Redevelopment projects to implement the program as outlined in this report.
  
2. In light of the ongoing efforts undertaken by the Park and Recreation and Engineering and Capital Projects Departments to streamline the design review process which already includes exhaustive community input and review, the City Manager recommends not establishing a Civic Design Commission.

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

(Continued)

Direct the Arts and Culture Commission to present the Public Art Master Plan to the following organizations before the Public Art Master Plan is heard before the City Council: a) San Diego Regional Chamber of Commerce, b) National Association of Office and Industrial Properties, and c) Community Planners Committee (CPC).

To determine the annual fiscal impact of the proposed policies contained in the Public Art Master Plan, direct the City Manager to conduct a fiscal analysis of the potential annual costs based on the Fiscal Year 2004 City budget before the Public Art Master Plan is heard before City Council.

(Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:50 a.m. – 12:00 p.m.)

MOTION BY MADAFFER TO INTRODUCE THE ORDINANCE AS AMENDED TO ADD SUBSECTION F TO SECTION 26.0705 TO READ AS FOLLOWS: INDUSTRIAL AND COMMERCIAL DEVELOPMENT THAT IS NOT OPEN OR ACCESSIBLE, IN ITS ENTIRETY, TO THE GENERAL PUBLIC DUE TO THE STORAGE AND USE OF HAZARDOUS, RADIOLOGICAL, OR INFECTIOUS MATERIALS THAT MAY JEOPARDIZE THE PUBLIC'S SAFETY. Second by Atkins. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S508: Awarding Construction Contracts to Metro Builders & Engineering LTD for the Mid City Transit Gateways Project, Phase 2.

(City Heights, Normal Heights, and Kensington Community Areas. District-3.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-1112) ADOPTED AS RESOLUTION R-299168

Authorizing the City Manager to award construction contracts to Metro Builders & Engineering LTD in an amount not to exceed \$3,193,592, for the Mid City Transit Gateways Project, Phase 2 (El Cajon Blvd. and University Ave. Bridge Decks over Highway I-15), Capital Improvements Project CIP-39-232.0, 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 accept, appropriate, and expend \$2,725,846 in TEA 21 funding authorized by CalTrans on December 17, 2003;

Authorizing the City Auditor and Comptroller to appropriate \$200,000 from Fund No. 10259, Redevelopment Contributions to City Heights Projects to CIP-39-232.0, Mid City Transit Gateways Project;



Authorizing the increase of the FY 2004 CIP budget for CIP-39-232.0, Mid City Transit Gateways Project, (Fund No. 30244, Dept. No. 30244, Org. No. 106, and J.O. No. 392320) by \$2,925,846 (\$2,725,846 from Fund No. 38610 TEA 21 and \$200,000 from Fund No. 10259);

Authorizing the expenditure of an amount not to exceed \$270,431 for contingencies and inspection costs;

Authorizing the City Auditor and Comptroller, upon direction of the City Manager, to relocate the funding resources from TransNet funds between TransNet Cash and Commercial Paper funded projects as may be appropriate to maximize the use of TransNet Cash and minimize the use of Commercial Paper funding for CIP-39-232.0.

**CITY MANAGER SUPPORTING INFORMATION:**

The Mid City Transit Gateways Project (Project) is largely funded by a Federal TEA 21 enhancement grant of \$4,255,000 and a City TransNet match of \$534,000. Phase 1 of the project, which added landscaping improvements to the medians on El Cajon Boulevard between I-15 and 43<sup>rd</sup> Street is complete. Phase 2 of the project will enhance the freeway bridge decks over I-15 at El Cajon Boulevard and University Avenue with lighted transit shelters and seating, noise attenuation panels, rest rooms, concession structures, enhanced paving and community identification signage. Improvements will enhance the pedestrian environment, create a pleasing and welcoming transit plaza for riders of public transportation and contribute to a sense of community identity.

This Council Action would approve the award of construction contracts to Metro Builders & Engineers Group, LTD, for construction of both the University Avenue and El Cajon Boulevard bridge deck improvements over I-15. Metro Builders was the lowest responsible bidder on both bid packages. Bridge deck improvements were conceived of in the late 1990's by a coalition of community groups who ultimately collaborated with City staff to write a TEA 21 federal enhancement grant application in 1998. The grant was awarded by SANDAG in 1999 receiving #1 project ranking. Authorization to proceed with preliminary engineering for Phase 2 of the project came in 2000.

Four major community workshops and numerous coalition group meetings were held to develop preliminary and then final plans for the bridge deck improvements. Construction of the project will culminate many years of community-based and community-supported planning and implementation. Due to the escalating costs of steel on the open market, the low bids were 17% higher than the engineer's estimates. An Additional \$200,000 in tax increment funding has been

requested from the City Heights Redevelopment Agency as a companion item on today's docket. These additional funds will make it possible to award the contracts and begin construction, a critical milestone, given that TEA 21 funding is awarded on a "use it or lose it" basis by SANDAG.

**FISCAL IMPACT:**

Previously authorized:	TEA 21 =	\$1,534.42
	TransNet =	\$436,643.10
	MTDB =	<u>\$100,000.00</u>
	TOTAL =	\$538,177.52
Current authorization:	TEA 21 =	\$2,725,846.00
	Redevelopment =	<u>\$200,000.00</u>
	TOTAL =	\$2,925,846.00
<b>GRAND TOTAL AVAILABLE =</b>		<b>\$3,464,023.52</b>

Project Cost Estimate: Contracts =	\$3,193,592.00
Contingencies =	\$223,551.00
City Inspections =	\$46,880.52
<b>TOTAL PROJECT COSTS =</b>	<b>\$3,464,023.52</b>

Herring/Cunningham/SHM

Aud. Cert. 2401044.

**NOTE:** See the Redevelopment Agency Agenda of 5/4/2004 for a companion item.

**FILE LOCATION:** CONT – Metro Builders and Engineers Group;  
W. O. 392320

**COUNCIL ACTION:** (Time duration: 11:49 a.m. – 11:50 a.m.)

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

