

THE CITY OF SAN DIEGO, CALIFORNIA
 MINUTES FOR REGULAR COUNCIL MEETING
 OF
 MONDAY, MAY 10, 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 2:09 p.m. Mayor Murphy recessed the meeting at 2:58 p.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 3:06 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 4:54 p.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 5:04 p.m. with Council Member Inzunza not present. Mayor Murphy adjourned the meeting at 6:39 p.m. into Closed Session at 9:00 a.m. on Tuesday, May 11, 2004, to discuss existing and anticipated litigation, and real property negotiation 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 (pr)

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 City Clerk Charles Abdelnour.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by City Attorney Casey Gwinn.

FILE LOCATION: MINUTES

ITEM-30: Tourism Week.

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1134) ADOPTED AS RESOLUTION R-299171

Recognizing the importance of the visitor industry to San Diego's economy and quality of life;

Proclaiming May 10-16, 2004 to be "Tourism Week" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:21 p.m.)

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

ITEM-31: Courtney Ann Coyle Day.

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2004-1163) ADOPTED AS RESOLUTION R-299172

Commending Courtney Ann Coyle for her dedication, commitment, perseverance, and success in protecting natural and cultural resources and landscapes in our region and throughout the State and the Nation;

Proclaiming May 10, 2004 to be "Courtney Ann Coyle Day" in the City of San Diego.

FILE LOCATION: AGENDA

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

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

ITEM-32: SAY Day at the Bay 2004.

COUNCILMEMBER MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-882) ADOPTED AS RESOLUTION R-299173

Recognizing the accomplishments of Social Advocates for Youth, SAY San Diego, and proclaiming May 10, 2004 to be "SAY Day at the Bay 2004" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:26 p.m. – 2:30 p.m.)

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

CLOSED SESSION ITEMS

Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

CS-1 *Building Industry Association, Inc. v. City of San Diego*
San Diego Superior Court Case No. GIC 817074

REFERRED TO CLOSED SESSION ON TUESDAY, MAY 11, 2004

DCA Assigned: John Mullen

This case involves a challenge to the City Council's decision on June 3, 2003, to adopt the Inclusionary Housing Ordinance [the Ordinance], codified at Chapter 14, Article 2 of the San Diego Municipal Code [SDMC]. Plaintiff Building Industry Association challenges the validity of the Ordinance on several grounds, including claims that the Ordinance authorizes an illegal exaction, unlawfully delegates legislative power, and impairs the vested property rights of land owners. The case is set for trial on July 16, 2004. In closed session, the City Attorney will

update the City Council on the status of the litigation and seek direction on Plaintiffs' most recent offer to settle the case.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:41 p.m. – 2:41 p.m.)

Mayor Murphy closed the Hearing.

CS-2 *Chargers Football Company, LLC v. City of San Diego*
Los Angeles Superior Court Case No. BC 306758

REFERRED TO CLOSED SESSION ON TUESDAY, MAY 11, 2004

ACA Assigned: Leslie J. Girard

This matter concerns the litigation filed by the San Diego Chargers [Chargers] against the City of San Diego [City], and the City's related cross complaint against the Chargers, over the validity of the "trigger" notice delivered to the City by the Chargers in March of 2003 pursuant to the 1995 agreement for the use of Qualcomm Stadium [1995 Agreement]. In closed session, the City's outside litigation counsel and the City Attorney will report on the status of the litigation and the status of any additional discussions with the Chargers concerning the term sheet authorized by the City Council on April 26, 2004, to be conveyed to the Chargers. The City Council may give further direction to its attorneys and consultants with regard to the matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:41 p.m. – 2:42 p.m.)

Mayor Murphy closed the Hearing.

CS-3 *De Anza Cove Homeowners Association, Inc. v. City of San Diego*
San Diego Superior Court Case No. GIC 821191

REFERRED TO CLOSED SESSION ON TUESDAY, MAY 11, 2004

DCA Assigned: Carrie Gleeson

This matter concerns the litigation filed by the De Anza Cove Homeowners Association [HOA] against the City of San Diego seeking damages related to expiration of the prior lease and transition of the property from use as a mobile home park to park and recreational use. In closed session, the City's outside litigation counsel and the City Attorney will report on the status of the litigation and request direction on a settlement offer presented by the HOA.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:42 p.m. – 2:56 p.m.)

Mayor Murphy closed the Hearing.

CLOSED SESSION PUBLIC TESTIMONY:

CLOSED SESSION COMMENT-1:

Comment by Tim Tatro regarding representing the De Anza Home Owners Association and stated that he was here to make sure that people were treated with respect.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:42 p.m. – 2:56 p.m.)

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

CS-4 Property: Qualcomm Stadium

REFERRED TO CLOSED SESSION ON TUESDAY, MAY 11, 2004

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

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.

This matter involves negotiations authorized by the City Council in March of 2003 between the City of San Diego [City] and San Diego Chargers [Chargers] regarding the Qualcomm Stadium site, pursuant to both the recommendations of the Citizens' Task Force on Chargers Issues and the "Trigger Notice" sent to the City by the Chargers in March of 2003.

In closed session, the City's negotiating team will report to the City Council on the status of any discussion with the Chargers concerning the term sheet authorized by the City Council on April 26, 2004, to be conveyed to the Chargers.

Please see the description on the closed session agenda under "pending litigation" — *Chargers Football Company, LLC v. City of San Diego* for a description of a related matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:41 p.m. – 2:42 p.m.)

Mayor Murphy closed the Hearing.

* ITEM-50: Installation of Parking Meters at Beech Street, Columbia Street, and State Street.

(Centre City Community Area. District-2.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 4/26/2004. (Council voted 9-0):

(O-2004-120) ADOPTED AS ORDINANCE O-19276 (New Series)

Establishing parking meter zones at the following locations, pursuant to the authority of Section 22508 of the California Vehicle Code and in accordance with the provisions of Section 86.11 of the San Diego Municipal Code:

South side of Beech Street, between Columbia Street and State Street;

East side of Columbia Street, between Ash Street and Beech Street; and

West side of State Street, between Ash Street and Beech Street.

Declaring that the above-described meters shall be in parking meter Rate Zone A as described in Section 86.13 of the San Diego Municipal Code;

Declaring that a parking time limit of two hours shall be in effect in the above-described locations between the hours of 8:00 a.m. and 6:00 p.m., Sundays and certain holidays excepted, as provided in Section 86.16 of the San Diego Municipal Code;

Authorizing the installation of the parking meters and the necessary signs and markings to be made in the above-described locations.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Maienschein. Passed by the following vote: Peters-yea, Zuchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-51: Anchorage Lane Project Rezone, Located at 1055 Shafter Street.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 4/27/2004. (Council voted 9-0):

(O-2004-127 Cor. Copy) ADOPTED AS ORDINANCE O-19277 (New Series)

Rezoning 0.38 acres, located 1055 Shafter Street, in the Peninsula Community Plan Area, from the CO-1-2 Zone, as defined by San Diego Municipal Code Section 131.0406, and repealing Ordinance O-16910 (NS), adopted July 27, 1987.

FILE LOCATION: LUP-Anchorage Lane 04/27/04 (65)

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-52: Right-of-Way Use Agreement with NextG Networks of California, Inc.

(See City Manager Report CMR-04-089.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2004-129) INTRODUCED, TO BE ADOPTED ON MONDAY,
MAY 24, 2004

Introduction of an Ordinance approving a Right-of-Way Use Agreement with NextG Networks of California, Inc. for the nonexclusive use of City right-of-way and selected lightpoles for microcellular telecommunications for wireless carriers.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

* ITEM-100: Approving the General Requirements Contract for Park and Recreation Department.

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1123) ADOPTED AS RESOLUTION R-299174

Approving the Contract Documents and Technical Specifications for the construction of “General Requirements Contract for Park and Recreation Department,” for as-needed construction to minor improvements at various locations with expenditures up to \$2,000,000 annually for the period between June 1, 2004 and May 31, 2005, renewable for one year afterward, as advertised by the Engineering and Capital Projects Department – Contract Services;

Authorizing and directing the City Manager to execute a contract with the lowest responsible and reliable bidder;

Authorizing the City Manager to approve individual tasks up to \$200,000 each, contingent on the City Auditor and Comptroller furnishing a certificate demonstrating that funds are available.

CITY MANAGER SUPPORTING INFORMATION:

Minor park improvement projects can take two to three years from inception to completion when following the design-bid-build method for public works contracts. Many of the smaller improvement projects in the parks, such as sidewalks, pedestrian ramps, and pathways are disadvantaged by this process which is more suited for larger and/or complex projects.

The General Requirements Contract (GRC) will reduce the time between when a smaller project is identified and when it is completed. In addition, the GRC will provide project cost savings due to streamlining the design and bid process. The contract prices remain in effect for the one year term and can be renewed for one additional year.

After a project is identified, a site visit is scheduled where scope, specifics, and prices are discussed by the City and contractor. Once there is agreement, the City will process a Task Authorization, and issue a Notice to Proceed to the contractor. We estimate a typical improvement will be constructed within three to four months from issuing the notice to proceed.

This process will complement the recently piloted provide and install play area and prefabricated comfort station contracts.

FISCAL IMPACT:

Total authorized expenditure per contract year will not exceed \$2,000,000. The funding for each GRC Task Authorization will be drawn from individual CIP project budgets as approved via the annual budget process and/or previous authorizations by request for council action.

Herring/Oppenheim/AP

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

* ITEM-101: Inviting Bids for Hillcrest and Mission Hills Accelerated Sewer.

(See memorandum from Frank Belock, Jr. dated 4/20/2004. Uptown/Mission Hills Community Areas. District-2.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-1057) ADOPTED AS RESOLUTION R-299175

Approving the plans and specifications for the construction of Hillcrest and Mission Hills Accelerated Sewer (Project) on Work Order No. 176701;

Authorizing the City Manager after advertising for bids in accordance with law, to establish contract funding phases, to award a contract to, and to execute a contract with, the lowest responsible and reliable bidder for the Project, contingent upon: (a) City Council approval of the expenditure of any additional Project funding that may become necessary as a result of the bid opening for the Project; (b) the City Auditor and Comptroller first furnishing one or more certificates certifying that the funds necessary for the expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer; and (c) City Council approval of the FY05 Capital Improvements Program Budget and adoption of the FY05 Appropriation Ordinance;

Authorizing the expenditure of an amount not to exceed \$1,854,754.10 from Sewer Fund 41506, CIP-46-206.0, Annual Allocation – Emergency Construction for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishing one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer and contingent upon the passage of the FY05 Capital Improvement Program Budget and adoption of the FY05 Appropriation Ordinance;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K04392C)

NATURAL RESOURCES AND CULTURE COMMITTEE’S RECOMMENDATION:

On 4/28/2004, NR&C voted 5 to 0 to approve the project. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

SUPPORTING INFORMATION:

This project is located within the Uptown/Mission Hills Community area. The existing mains were installed in 1930. Between 1994 and 1996 approximately 20,659 linear feet of mains were rehabilitated. At that time, the technology was unavailable to rehabilitate the sewer laterals.

This project includes the rehabilitation of 53 service laterals, 215 service lateral connections, 2 sewer manholes, and 31 internal main repairs. All work within canyon areas is proposed to be done from inside the existing mains with hand carried equipment. During construction of the project, the Contractor's work hours will be between the hours of 8:30 a.m. and 3:30 p.m., Monday through Friday.

During design, the Project Manager and Project Engineer presented the project to the community April 4, 2002. In addition, a follow-up letter was sent to the Uptown Planners on May 23, 2003, to inform the community of the status of the project. Prior to construction, the nearby residents will be notified by mail at least one (1) month before construction begins by the City's Engineering and Capital Projects Department and again ten (10) days before construction begins by the Contractor through hand distribution. Traffic control plans will be prepared by the Contractor for this project and will be implemented during the construction operations.

FISCAL IMPACT:

The total estimated cost of this project is \$1,854,754.10. Funds of \$1,854,754.10 are available in Sewer Fund 41506, CIP-46-206.0, Annual Allocation - Emergency Construction. This project is scheduled to be phase funded over FY 2005 and FY 2006.

Loveland/Belock/HR

FILE LOCATION: CONT – Zondiros Corporation; W. O. 176701

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

* ITEM-102: Inviting Bids for the Construction of El Cuervo Norte Wetland Mitigation Project.

(Los Penasquitos Community Area. District-5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1143) ADOPTED AS RESOLUTION R-299176

Approving the plans and specifications for the construction of El Cuervo Norte Wetland Mitigation Project, CIP-52-463.0 (Project) as advertised by Contract Services, on Work Order No. 524636;

Authorizing the City Manager to execute a construction contract with the lowest responsible and reliable bidder for construction of the Project upon certification by the City Auditor and Comptroller;

Authorizing the City Manager to execute an Agreement with Dudek & Associates, Inc. to provide professional services to the City, for biological monitoring for the Project;

Authorizing the City Auditor and Comptroller to accept up to \$1,493,000 from the San Diego Association of Governments, Fund 38961, for the sole and exclusive purpose of funding costs associated with the construction of the Project;

Authorizing the City Auditor and Comptroller to transfer amounts not to exceed \$484,777 from CIP-52-676.0, Fund 79006, \$18,127 from CIP-52-653.0, Fund 79004, \$288,635 from Fund 41506, \$40,902 from CIP-29-718.0, Fund 79001 to CIP-52-463.0;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$198,001 from CIP-46-193.0, Fund 41506, Annual Allocation – Muni Pooled Contingency, to CIP-46-136.0, Fund 41506, Carmel Valley Trunk Sewer (East of I-5);

Authorizing the City Auditor and Comptroller to increase the FY 2004 Capital Improvement Budget in CIP-52-463.0 in the amount of \$2,325,441 from Funds 38961, 79006, 79004, 41506, and 79001;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$2,325,441 for the sole and exclusive purpose of providing funds for the Project and related costs, from CIP-52-463.0, State Route 56 – Carmel Valley Road to Black Mountain Road, of which \$832,441 is from Funds 79006, 79004, 41506, and 79001; and which \$1,493,000 is from Fund 38961, contingent upon receipt of funds from the San Diego Association of Governments;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$198,001 for the sole and exclusive purpose of providing funds for the Project, from CIP-46-136.0, Fund 41506, Carmel Valley Trunk Sewer (East of I-5);

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K04458C)

CITY MANAGER SUPPORTING INFORMATION:

The EI Cuervo Norte Wetland Mitigation Project is required in order to mitigate for the impacts to jurisdictional wetlands due to construction of State Route 56. While Phases 1 and 2 of State Route 56 started construction prior to 2004, the environmental regulatory agencies agreed with

the timing of constructing the mitigation project in 2004. The project will also be creating additional wetland mitigation which will allow the following projects to mitigate for their project impacts at the same site:

1. Mira Sorrento Place - Scranton Road to Vista Sorrento Parkway (CIP-52-676.0).
2. Camino Del Sur - Carmel Mountain Road to 1,600 feet North of Park Village (CIP-52-653.0).
3. Canyon Sewer Access Projects within the Los Penasquitos Watershed.
4. Nobel Athletic Area - Development (CIP-29-718.0).
5. Carmel Valley Trunk Sewer System (CIP-46-136.0).

The EI Cuervo Norte Wetland Mitigation project is located in Los Penasquitos Canyon Preserve and will provide a total of 23 acres of wetland mitigation. Dudek & Associates will be performing construction monitoring and long term biological monitoring for the project.

FISCAL IMPACT:

City Council has previously approved the appropriation and expenditure of funds for mitigation costs related to State Route 56 - Carmel Valley Road to Black Mountain Road. The Mira Sorrento Place, Camino Del Sur, Nobel Athletic Area - Development, Canyon Sewer Access and Carmel Valley Trunk Sewer System Projects have the funds available to fund their portion of the EI Cuervo Norte Wetland Mitigation Project.

The costs for the FBA Funded projects will be reflected in the Public Facilities Financing Plans for the respective project. The project cost contribution percentages are as follows:

Mira Sorrento Place 10.43%
Camino Del Sur .39%
Nobel Athletic Area - Development .88%

Loveland/Belock/PB

Aud. Cert. 2401034.

FILE LOCATION: CONT – 3-D Enterprises, Inc.; W.O. 524636

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

* ITEM-103: Additional Funding for the Construction of Sewer Group 707 for Contract Change Order No. 4.

(See memorandum from Frank Belock, Jr. dated 4/20/2004. Normal Heights Community Area. District-3.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-944) ADOPTED AS RESOLUTION R-299177

Approving Change Order No. 4, dated February 25, 2004, issued in connection with the contract between the City of San Diego and Pacific Southwest, Inc., for the construction of Sewer Group 707 (Project); and approving the changes therein set forth, amounting to a net increase in the contract price of \$166,172.20, and an extension of time of 60 working days;

Authorizing the additional expenditure of an amount not to exceed \$289,172.20 from Water Fund 41500, CIP-73-083.0, Annual Allocation – Water Main Replacement, for the purpose of providing funds for the above referenced Project.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 4/28/2004, NR&C voted 5 to 0 to approve the project. Engineering staff stated this was a request for additional funding for Sewer Group Job 707, for Contract Change Order No. 4. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

SUPPORTING INFORMATION:

The award of Sewer Group 707 was approved by City Council under Resolution RR-297026 on September 9, 2002. The construction of the project is over 90% complete.

During construction of Sewer Group 707 on Biona Drive, the existing cast iron water main running parallel to the sewer main failed frequently and caused flooding at the project site. The replacement of the water main along Biona Drive between Adams Avenue and Madison Avenue will allow the City to prevent further breaks and avoid tearing up the street a second time to replace the water main.

FISCAL IMPACT:

The total cost of this request is \$289,172.20. Of this funding, \$216,172.20 is for construction, \$25,000 is for contingencies, and \$48,000 for engineering related costs. Funding is available from Water Fund 41500, CIP-73-083.0, Annual Allocation - Water Main Replacement. This project is scheduled to be constructed in FY 2004.

Loveland/Belock/HR

Aud. Cert. 2400897.

FILE LOCATION: CONT-PACIFIC SOUTHWEST, INC.; W.O. 175431

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

* ITEM-104: Three actions related to Additional Funding for Construction Change Order No. 1 for Water and Sewer Group Job 464C.

(See memorandum from Frank Belock, Jr. dated 4/20/2004. Centre City Community Area. District-2.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2004-1102) ADOPTED AS RESOLUTION R-299178

Approving Change Order No. 1, dated March 24, 2004, issued in connection with the contract with BRH Garver, for a net increase in the contract price of an amount not to exceed \$556,634, and an extension of time of 40 working days;

Authorizing the additional expenditure of an amount not to exceed \$264,440.81 from Water Fund 41500, CIP-73-083.0, Annual Allocation – Water Main Replacement, for construction and related costs for Water and Sewer Group 464C (Project).

Subitem-B: (R-2004-1110) ADOPTED AS RESOLUTION R-299179

Certifying that Mitigated Negative Declaration LDR-99-0341 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by Council in connection with the approval of Water and Sewer group 464C (Project);

Approving the Mitigated Negative Declaration;

Adopting the Mitigation Monitoring and Reporting Program;

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

Subitem-C: (R-2004-1132) ADOPTED AS RESOLUTION R-299180

Stating for the record that the information contained in the final Mitigated Negative Declaration LDR-98-1182, including any comments received during the public review process, has been previously 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 Water and Sewer Group Job 464C;

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.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 4/28/2004, NR&C voted 5 to 0 to approve the project. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

SUPPORTING INFORMATION:

Water and Sewer Group Job 464C is part of the City of San Diego's Continuing Annual Water and Sewer Main Replacement Program. This project is in the Centre City Community area and consists of replacing approximately 3,400 linear feet of existing cast iron water mains and 3,200 linear feet of existing concrete sewer mains. The construction of this project is approximately 60% complete.

Construction Change Order No. 1 is a result of a request from both the Centre City Development Corporation (CCDC) and the Gaslamp Quarter Association to accelerate the replacement of a portion of water main on Sixth Avenue, from Broadway to G Street, to accommodate CCDC's schedule for a surface improvement project. This work is part of Water Group 521, scheduled for construction in January 2005, but will now become part of Water and Sewer Group 464C via Change Order. This Change Order consists of the replacement of approximately 1,360 linear feet of cast iron and asbestos cement water mains, constructed as early as 1906 and approaching the end of their useful life. The replacement of these deteriorated mains will continue to provide the community with a safe and reliable infrastructure.

Traffic control plans have been prepared and will be implemented during the construction operations. Contractor working hours on Sixth Avenue will be Monday through Friday, 8:30 a.m. to 3:30 p.m.

FISCAL IMPACT:

The total cost of this project is \$4,560,330.54 (\$2,135,766.82 Sewer Fund/\$2,424,563.72 Water Fund). Funding of \$4,707,253.91 was previously authorized by Resolution R-292503 on November 29, 1999, and R-297700 on March 3, 2003 (\$2,547,131 Sewer Fund/\$2,160,122.91 Water Fund). This request is authorizing additional expenditures of \$264,440.81 from Water Fund 41500, CIP-73-083.0, Annual Allocation – Water Main Replacement.

Loveland/Belock/HR

Aud. Cert. 2401009.

FILE LOCATION: SUBITEMS A, B, & C: CONT-BRH GARVER; W.O.
174991/184231

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

- * ITEM-105: Two actions related to Awarding Contract to HPS Mechanical, Inc. and Authorizing Additional Funding for Sorrento Valley Trunk Sewer and Sewer Pump Station 89.

(See memorandum from Frank Belock, Jr. dated 4/20/2004. Torrey Pines, Torrey Hills, and University City Community Areas. District-1.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2004-1150 Cor. Copy) ADOPTED AS RESOLUTION R-299181

Awarding HPS Mechanical, Inc. the construction contract for Sorrento Valley Trunk Sewer and Sewer Pump Station 89 (Project), in the amount not to exceed \$12,784,766;

Authorizing the additional expenditure of an amount not to exceed \$1,331,374 from Sewer Fund 41506, CIP-46-197.0, Sorrento Valley Trunk Sewer and Sewer Pump Station 89, 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 Manager to approve revised contract phase funding for CIP-44-001.0, Sewer Group Job 2001 in the following manner, provided that the City Auditor and Comptroller first furnishes a certificate demonstrating that the funds necessary for expenditure under said contract are, or will be, on deposit with the City Treasurer.

<u>Funding Phase</u>	<u>Amount</u>	<u>Fiscal Year</u>
Phase 2	\$ 893,852	2004
Phase 3	\$4,096,599	2005

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$2,449,187 from Sewer Fund 41506, unappropriated Fund Balance due to the rephasing of CIP-44-001.0, Sewer Group Job 2001, of which \$1,755,000 will be transferred to Sewer Fund 41506, CIP-46-197.0, Sorrento Valley Trunk Sewer and Sewer Pump Station 89 Project, for the construction of this project and \$694,187 will be transferred to Sewer Fund 41506, CIP-44-001.0, Annual Allocation – Sewer Main Replacement;

Authorizing the City Manager to approve contract phase funding for CIP-46-197.0, Sorrento Valley Trunk Sewer Pump and Sewer Pump Station 89 in the following manner, provided that the City Auditor and Comptroller first furnishes a certificate demonstrating that the funds necessary for expenditure under said contract are, or will be, on deposit with the City Treasurer.

<u>Funding Phase</u>	<u>Amount</u>	<u>Fiscal Year</u>
Phase 1	\$2,599,187	2004
Phase 2	\$4,873,519	2005
Phase 3	\$4,873,519	2005
Phase 4	\$2,741,562	2006

Authorizing funding of Phase 1 in the amount of \$2,599,187 for CIP-46-197.0, Sorrento Valley Trunk Sewer and Sewer Pump Station 89 Project;

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-2004-1160) ADOPTED AS RESOLUTION R-299182

Stating for the record that the information contained in the Final Mitigated Negative Declaration, including any comments received during the public review process, has been previously 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 the approval of Sorrento Valley Trunk Sewer and Sewer Pump Station 89 Project;

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.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 4/28/2004, NR&C voted 5 to 0 to approve the project. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

SUPPORTING INFORMATION:

The Sorrento Valley Trunk Sewer & Sewer Pump Station 89 are located in the Torrey Hills, Torrey Pines, and University City community areas. The existing Sorrento Valley Trunk Sewer System is approximately 50 years old and has exceeded its service life. The purpose of this project is to divert and redirect all sewage flow from the deteriorated clay pipe trunk sewer located in the environmentally sensitive Penasquitos Lagoon in the Torrey Pines State Reserve to new sewer pipes in the street right-of-way. The project consists of construction of a new underground pump station, emergency storage tank, generator, and installation approximately 7,857 feet of gravity sewer, and 3,182 feet of force main. This new system will eliminate the need for the old Trunk Sewer and provide improved sewer service to the community.

During design, the Project Manager and Project Engineer presented the project to three different community groups for approval (University City on July 9, 2002, Torrey Pines on July 16, 2002) and information (Torrey Pines Hills on October 9, 2000, and July 17, 2001, as well as Torrey Pines on June 14, 2001, and June 14, 2002). Nearby residents will be notified by mail at least one (1) month before construction begins by the City's Engineering and Capital Projects Department and again ten (10) days before construction begins by the contractor through hand distribution. Traffic plans have been prepared for this project and will be implemented during the construction operations.

The advertising of this project was approved by the City Council on September 15, 2003. Four (4) bid packages were received and opened on January 6, 2004. Pursuant to Council Resolution R-298185, this project is subject to Prevailing Wage Rates. HPS Mechanical, Inc. was the lowest bidder with a bidding amount of \$12,784,766, which is 7.03% higher than the engineer's estimate of \$11,885,973. Project is accelerated due to the deteriorated condition of the existing trunk sewer in the Los Penasquitos Lagoon.

FISCAL IMPACT:

The total cost of this project is \$15,795,754. Funding of \$14,464,380 was previously authorized by Council Resolutions R-289956/292031/296447/298712. Authorizing an additional expenditure of \$1,331,374 from Sewer Fund 41506, CIP-46-197.0, Sorrento Valley Trunk Sewer & Sewer Pump Station 89. Funding of \$2,599,187 for Phase I (FY 2004) is available in Sewer Fund 41506, CIP-44-001.0, Sewer Group Job 2001 in the amount of \$1,755,000 and in CIP-46-197.0, Sorrento Valley Trunk Sewer and Sewer Pump Station 89 in the amount of \$844,187 for this purpose. This project is scheduled to be phase-funded over FY 2004 - FY 2006.

Loveland/Belock/HR

Aud. Cert. 2401012.

FILE LOCATION: SUBITEMS A & B: CONT – HPS MECHANICAL, INC.

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

* ITEM-106: Mira Sorrento Place Reclaimed Water Pipeline Funding.

(See memorandum from Larry Gardner dated 4/20/2004. Mira Mesa Community Area. District-5.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-1144) ADOPTED AS RESOLUTION R-299183

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$235,085 from Water Fund 41500, CIP-73-216.0, Black Mountain Reservoir, to Water Fund 41500, CIP-70-954.0, North City Reclamation System (Mira Sorrento Place Reclaimed Water Pipeline);

Authorizing the expenditure of an amount not to exceed \$235,085 from Water Fund 41500, CIP-70-954.0, North City Reclamation System (Mira Sorrento Place Reclaimed Water Pipeline), \$189,085 for construction of the Mira Sorrento Place Reclaimed Water Pipeline, and \$46,000 for design services reimbursement to CIP-52-676.0, Mira Sorrento Place;

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

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 4/28/2004, NR&C voted 5 to 0 to approve the project. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

SUPPORTING INFORMATION:

This action is to provide Water Department funding to the Engineering & Capital Projects Department for the recycled water pipeline included in the Mira Sorrento Place Road Widening and Extension Project. On September 2, 2003 (R-298344), the City Council authorized the City Manager to award construction of the Mira Sorrento Place - Scranton Road to Vista Sorrento Parkway Project.

The Engineering & Capital Projects Department has awarded the construction contract (AC2400616) to Hazard Construction. The existing two lane 560 foot portion of Mira Sorrento Place is being widened to a four lane collector and is being extended by 1,160 feet to intersect with Vista Sorrento Parkway at the existing on/off ramps to the Interstate 805 freeway, in accordance with the community plan. The project includes installation of 1,733 linear feet of 8-inch recycled water pipeline.

Extension of the existing 8-inch recycled water pipeline will provide recycled water for about 3.5 miles of new Caltrans service for the Interstate 805 and Interstate 5 freeways. There are other potential customers within the Northern Reuse Distribution System that could also be served. Construction of the recycled pipeline as a part of this road project reduces cost and minimizes traffic impacts. Expansion of recycled water distribution capabilities in the Northern Service Area is an integral part of the City's water reuse goals and the City's objective to meet the Environmental Protection Agency (EPA) reuse goal for 2010.

FISCAL IMPACT:

Total cost of the reclaimed water pipeline is \$235,085. Funding for this action will be transferred from CIP-73-216.0, Black Mountain Reservoir.

Mendes/Gardner/FA

Aud. Cert. 2401025.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

* ITEM-107: Acceptance and Authorization to Expend Economic Development Initiative Funds from the Department of Housing and Urban Development for the Paradise Hills Revitalization Project.

(Skyline/Paradise Hills Community Areas. District-4.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1125) ADOPTED AS RESOLUTION R-299184

Authorizing the City Manager to accept, appropriate, expend, and take all necessary actions to secure a total of \$150,000 in Economic Development Initiative Funds from the Department of Housing and Urban Development for CIP-39-233.0, Paradise Hills Revitalization Project;

Authorizing and directing the City Auditor and Comptroller to establish a special interest-bearing fund for the Economic Development Initiative Funds;

Amending the Fiscal Year 2004 Capital Improvements Program by increasing CIP-39-233.0, Paradise Hills Revitalization Project, in amount of \$150,000.

CITY MANAGER SUPPORTING INFORMATION:

The Paradise Hills Revitalization Project involves the rehabilitation of a one block older commercial strip development located along Reo Drive between Cumberland and Albemarle Streets. The project proposes the installation of diagonal parking, street trees, pedestrian-oriented street lighting, new sidewalks along storefronts, enhanced crosswalks, and curb extensions. The project is being constructed in two separate phases. Phase One will include three enhanced crosswalks, curb extensions, and eight street trees plus tree grates.

During 1999, a total of \$279,740 had been previously awarded to this project from the State Department of Parks and Recreation along with \$55,375 from Transnet/District 4 Older Communities Fund. On January 30, 2004, the City was notified that an additional funding of \$150,000 had been appropriated to this project by the Congress of the United States, House of Representatives at the request of Congressman Bob Filner. This funding will be coming from the Department of Housing and Urban Development under the Economic Development Initiative Funds.

This additional funding will help complete construction of Phase One which started on March 29, 2004. Remaining funds will be used towards design and construction of Phase Two (diagonal parking, additional street trees, street lighting, and new sidewalks) of this project.

FISCAL IMPACT:

Would add \$150,000 in Economic Development Initiative Funds for the Paradise Hills Revitalization Project

Ewell/Goldberg/PC

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

- * ITEM-108: Consultant Agreement with Tran Consulting Engineers to Provide As-Needed Civil Engineering Services.

(See memorandum from Larry Gardner dated 4/20/2004.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-1148) ADOPTED AS RESOLUTION R-299185

Authorizing the City Manager to execute a consultant agreement with Tran Consulting Engineers for as-needed civil engineering services for the Water Department, Water Operations Division (Agreement);

Authorizing the expenditure of an amount not to exceed \$250,000 from Fund 41500, Water Utilities, for the purpose of providing funds for the Agreement;

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 4/28/2004, NR&C voted 5 to 0 to approve the project. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

SUPPORTING INFORMATION:

This as-needed civil engineering consultant service will allow Water Operations Division of Water Department to bring in expertise of on-call engineering support services to handle emergency or complex engineering issues in the water system.

This contract will augment existing City staff and will provide expertise in hydraulics, geotechnical, mechanical, electrical and structural engineering to assist the Division in response to water system emergencies and minor engineering design to support the operation and maintenance of the water system, and associated facilities and property. An as-needed contract is required to provide immediate response to water system emergencies to control, repair, and mitigate the damages resulting from the emergency.

Additionally, the as-needed contract allows the Division to obtain engineering consultant support on minor engineering designs (typically less than \$25,000 per task) in a efficient and timely manner.

FISCAL IMPACT:

Funding is available from the Water Department Fund 41500 in the amount of \$250,000.

Mendes/Gardner/MJN

Aud. Cert. 2401035.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

* ITEM-109: Amendment to the Memorandum of Understanding with the San Diego Municipal Employees' Association Regarding Dental and Eye Care Coverage.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1065) ADOPTED AS RESOLUTION R-299186

Amending Article 28, Flexible Benefits Plan of the Memorandum of Understanding between the San Diego Municipal Employees' Association (MEA) and the City of San Diego for the term of July 1, 2002 through June 30, 2005, to provide that any employee in one of MEA's bargaining units may enroll in MEA's dental and eye care plans offered under the City's Flexible Benefits Plan, regardless of whether the employee is a member of MEA, an agency fee payer or a non-union employee.

CITY MANAGER SUPPORTING INFORMATION:

Since 1985, one of the terms of the Memorandum of Understanding (MOU) between the San Diego Municipal Employees' Association (MEA) and the City provides that an employee represented by MEA may only enroll in MEA's dental plan and vision plan for such coverage under the City's Flexible Benefits Plan. Certain employee's in MEA bargaining units have recently challenged this provision before the Public Employment Relations Board and in Federal Court.

The City and MEA have agreed to amend this provision to enable any employee in one of MEA's bargaining units to enroll in MEA's dental and eye care plans regardless of whether the employee is a member of MEA, an agency fee payer, or a non-union employee. The amendment was approved by Council in Closed Session on March 9, 2004.

Lexin/McGhee/PC

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

* ITEM-110: Grant Application for 2002 Resources Bond Per Capita for Old Trolley Barn Neighborhood Park Play Area Upgrade.

(Mid City Community Area. District-3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1122) ADOPTED AS RESOLUTION R-299187

Authorizing the City Manager to apply to the State of California, under the California Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002 (PCP) awards grants to local public agencies for upgrades and improvements to parks, for the Grants for the construction of the Old Trolley

Barn Neighborhood Park Play Area Upgrade (Project), in the amount of \$100,000;

Authorizing the City Manager to take all necessary actions to secure funding from the State of California and to negotiate and execute all agreements necessary to comply with the PCP's grant requirements;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend the Grant for the Old Trolley Barn Neighborhood Park Play Area Upgrade, if they are secured;

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

Authorizing the City Auditor and Comptroller, upon receipt of a fully executed grant agreement, to increase by \$100,000 the Fiscal Year 2004 Capital Improvements Program Budget in CIP-29-583, Old Trolley Barn Neighborhood Park-Play Area Upgrade;

Authorizing the City Auditor and Comptroller, upon receipt of a fully executed grant agreement, to appropriate and expend an amount not to exceed \$100,000 from CIP-29-583.0, Old Trolley Barn Neighborhood Park – Play Area Upgrade, for the purpose of constructing Old Trolley Barn Neighborhood Park Play Area.

CITY MANAGER SUPPORTING INFORMATION:

In March 2002, California voters approved Proposition 40, the \$2.6 billion 2002 State Resources Bond "Safe neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002 (bond)." Based upon State Department of Finance population figures as of January 1, 2002, the City of San Diego will receive a total of \$11,063,430 on a Per Capita basis from the bond. On December 8, 2003, the Mayor and City Council approved Resolution R-298699, which included a distribution of the Per Capita / RZH Per Capita funds to each Council district, with a portion of the funding set aside for projects with citywide and regional impact.

On February 20, 2004 the City entered into a contract with the State of California for the 2002 Resources Bond Act Per Capita Grant Program. The City's allocation is intended for acquisition and development of neighborhood, community and regional parks and recreation lands and facilities.

This action authorizes the City Manager to apply for \$100,000 in grant funds, appropriated by the State of California as a portion of the City of San Diego's population-based allocation from

the 2002 Resources Per Capita Bond. The funds will be used for additional park amenities and construction of Old Trolley Barn Neighborhood Park Play Area Upgrade.

FISCAL IMPACT:

The City will receive \$100,000 for capital improvements to Old Trolley Barn Neighborhood Park Play Area Upgrade, CIP-29-583.0. No local matching funds are required for this grant proposal.

Herring/Oppenheim/AP

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

- * ITEM-111: Grant Application to the State Victim Compensation and Government Claims Board (State Agency) to Fund the Criminal Restitution Compact Restitution Specialist Position in the City Attorney's Office, Criminal Division.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1162) ADOPTED AS RESOLUTION R-299188

Authorizing the City Attorney to apply for, accept, and expend a \$73,360.20 grant from the State Victim Compensation and Government Claims Board (State Agency), to fund the Criminal Restitution Compact Restitution Specialist position in the Criminal Division, for a period of July 1, 2004 through June 30, 2005, under the terms and conditions outlined in the Standard Agreement Number BOC-4073 between the State Agency and the City Attorney's Office;

Agreeing to hold the State Agency of the State of California harmless from any liability arising out of the performance of the grant agreement, including court actions or damages, and certifies that the City will not use the grant to supplant local expenditures.

SUPPORTING INFORMATION:

The City Attorney has been notified by the State Board of Control that the City has been awarded a grant in an amount to exceed \$73,360.20 for a Legal Assistant to perform the duties outlined in the City Attorney Contract. This grant is for the period of July 1, 2004 through June 30, 2005 and is a continuation of a grant authorized and accepted by the City Council on May 28, 2002 by Resolution No. R-296556.

Gwinn

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

* ITEM-112: Second Amendment to the Consultant Agreement with Boyle Engineering Corporation for La Jolla Village Drive/I-805 Interchange and Miramar Road Widening Project.

(North University City Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1136) ADOPTED AS RESOLUTION R-299189

Authorizing the City Manager to execute a Second Amendment to Agreement with Boyle Engineering Corporation, for professional engineering services for La Jolla Village Drive/I-805 Interchange and Miramar Road Widening (Project);

Authorizing the expenditure of an amount not to exceed \$450,709 from CIP-52-485.0, Facilities Benefit Assessment Fund 79001 and \$28,034 from CIP-52-679.0, Facilities Benefit Assessment Fund No. 79001, for the purpose of providing funds for the above referenced Project;

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

CITY MANAGER SUPPORTING INFORMATION:

The subject project consists of the reconstruction of La Jolla Village Drive/I-805/Miramar Road Interchange and widening of La Jolla Village Drive/I-805/Miramar Road overcrossing and its approaches. In addition, Miramar Road would be widened to 8 lanes from Eastgate Mall to I-805. The project would be designed and constructed in substantial conformance with Caltrans Project Report entitled, "Proposed Extension of Nobel Drive to Miramar Road and Half Diamond Interchange of I-805 in the City of San Diego," dated October 1995 and in substantial conformance with the Final Environmental Impact Report/Environmental Impact Statement for Nobel Drive, I-805 Interchange and extension Project dated May 1998.

On March 29, 2002, per RR-296192, the City Council approved a Consultant Agreement with Boyle Engineering Corporation for preparation of plans and specifications for the subject project. On January 28, 2003, per RR-297559, the City Council approved a First Amendment to Agreement to design the original project as two separate construction projects.

The Second Amendment to the Agreement is for additional work associated with the I-805/La Jolla Village Drive Interchange and Miramar Road Widening Project that was not included in the original Contract or Amendment 1. Changes in the scope of work were due to revised ADA standards and to improve bicycle access through the interchange area. The changes include revised interchange geometrics at ramp intersections, additional traffic detour and construction staging plans, additional water pollution control plans, preparation of 14 additional design exception fact sheets, and additional right of way acquisition. These changes also resulted in a larger scope of work for the environmental evaluation.

FISCAL IMPACT:

Funding necessary for this action in the amount of \$478,743 is available from CIP-52-485.0, La Jolla Village Drive/I-805 Interchange project and CIP-52-679.0, Miramar Road Widening project.

Loveland/Belock/PB

Aud. Cert. 2401032.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

* ITEM-113: Sale of Parcel on 45th Street to the San Diego Unified School District.

(Chollas View Community Area. District-4.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-997) ADOPTED AS RESOLUTION R-299190

Authorizing the City Manager to conduct an exclusive sale of and convey to the San Diego Unified School District the Property consisting of a portion of lots 115 and 116 of Chollas View Subdivision No. 1 in the City of San Diego, according to Map 3864, filed April 11, 1958, in the official records of the San Diego County Recorder;

Authorizing the City Manager to execute the Quitclaim Deed in favor of the San Diego Unified School District;

Declaring that the City of San Diego as Responsible Agency under CEQA has reviewed and considered the Final EIR for the Proposed Construction and Expansion of Mead Elementary School, dated January 2003, and Addendum to the Previously Certified EIR, prepared by the San Diego Unified School District;

Adopting the Findings made with respect to the project pursuant to the California Public Resource Code Section 21082 and California Code of Regulations Section 15091;

Adopting the Mitigation Monitoring and Reporting Program;

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

CITY MANAGER SUPPORTING INFORMATION:

The subject parcel is roughly triangular in shape, containing approximately 5,000 square feet. The City acquired title via a Caltrans relinquishment on September 2, 1975, at no cost. The property was later improved with asphalt pavement, sidewalks and curbing. The property has been used as street parking, and there are no other improvements on site.

The School District has requested the sale of this parcel to facilitate construction of the new Mead Elementary School. The offer is \$65,000. City valuation staff has reviewed the offer, and concluded that it is within the range of market value for similar parcels on the market.

FISCAL IMPACT:

The amount of \$65,000 will be deposited into Capital Outlay Fund 302453.

Herring/Griffith/ACG

FILE LOCATION: DEED F-9726

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

* ITEM-114: General Utility and Access Easement Vacations in Amended Map of Black Mountain Ranch Unit 2 Map No. 14308.

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

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1099) ADOPTED AS RESOLUTION R-299191

Vacating the general utility and access easements located within Lots 61, 63, 65, 67, 69, 71, 74, 76, 78, and 80 of Amended Map of Black Mountain Ranch Unit 2 Map No. 14308 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 general utility and access easements in Lots 61, 63, 65, 67, 69, 71, 74, 76, 78, and 80 of Amended Map of Black Mountain Ranch Unit 2 Map No. 14308 as shown on Engineering Drawing 00104-C. This property is located in the Black Mountain Ranch Community Planning Area in Council District 1.

These easements are on private property. The applicant has amended the original subdivision map to provide larger lots, and in doing so re-designed the access to the lots via private drives, making the existing access easements unnecessary. There is no present or anticipated future use for the easements in their present locations. The applicant requests that the easements be vacated in order to better utilize the lots.

These easements were acquired at no cost to the City. Staff has reviewed the request and recommends approval of the vacations.

FISCAL IMPACT:

None.

Ewell/Broughton/GRB

FILE LOCATION: DEED F-9727

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

* ITEM-115: Foreign Trade Zone No. 153 Subzone for Callaway Golf Company.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1054) ADOPTED AS RESOLUTION R-299192

Authorizing the City Manager to submit a request for designation of Subzone No. 153 to the Foreign Trade Zones Board, United States Department of Commerce, enabling the Callaway Golf Company to activate their facility in the City of Carlsbad for Foreign Trade Zone Activity in accordance with regulations pursuant to Federal Law (15 C.F.R. part 400);

Authorizing the City Manager to take such actions and execute such documents as may be necessary to complete the authorization process.

CITY MANAGER SUPPORTING INFORMATION:

In 1988, the U. S. Department of Commerce, Foreign Trade Zone Board authorized the City of San Diego (City) to establish a general purpose Foreign Trade Zone (FTZ) in Otay Mesa. Foreign Trades Zones are designated areas outside of the United States Customs (Customs) sphere of influence permitting companies to import and export merchandise and components duty free. Duties are only assessed on merchandise and components upon leaving an activated FTZ facility and brought into the United States Commerce. FTZ companies are able to eliminate, reduce or defer duties on exported merchandise and components. Companies are also eligible to file Customs documents using the "weekly entry" program rather than daily entries, saving companies thousands of dollars annually. A FTZ general purpose zone allows companies the flexibility to repackage, re-label and assemble products but does not permit companies to manufacture unless a special permit is granted. For manufacturing companies located outside of the general purpose zone and within 60 miles of the U. S. Port of Entry, the FTZ regulations authorize grantees to request subzone status on behalf of a company seeking FTZ status. The City, as grantee of FTZ No. 153, has the obligation to request a subzone designation from the FTZ Board for San Diego County manufacturing companies involved in international trade and seeking FTZ status.

The City has received a request by Callaway Golf Company (Callaway) requesting subzone status to San Diego's FTZ No. 153 Callaway is a major designer, manufacturer, and distributor of golf equipment such as clubs, balls, and related accessories. In producing some of its golf equipment, Callaway uses a variety of imported and domestic sourced components. Accordingly, Callaway is interested in establishing a FTZ manufacturing and distribution subzone to optimize its business operations. Callaway's corporate headquarters is located at 2180 Rutherford Road, Carlsbad, California and consists of eight buildings totaling approximately 480,000 sq. ft.

The FTZ benefits Callaway seeks to realize will enhance their cash flow by using duty deferral techniques, tariff inversion, merchandise processing fee savings and duty elimination on exports. One of the important benefits that Callaway seeks to obtain is utilization of the "inverted tariff benefit." This benefit offers Callaway the option to pay duties on golf club parts (4.9%) admitted to the FTZ, or the duty rate of the finished golf clubs (4.4%) upon leaving the FTZ and entering the U. S. Commerce. These reduced duties will amount to significant savings for the company.

The proposed subzone represents a significant benefit to both Callaway and the San Diego region by establishing the proposed subzone. Such benefits would include an increase in local economic earnings in the form of salaries paid to employees, retention of existing jobs and the creation of additional jobs. Currently, Callaway employs 2,000 employees, many of which reside within the San Diego City limits.

The City of Carlsbad supports Callaway's request for FTZ subzone designation. The company will be required to submit an annual report to the City on its FTZ activity. The City's administrative responsibilities for all FTZ subzone users is limited to the annual reporting requirements and forwarding requests for FTZ facility modifications to the U. S. Department of Commerce.

FISCAL IMPACT:

None. The Applicant will incur all expenses related to this request.

Herring/Cunningham/Kawar/LM

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

* ITEM-116: Recovery Games of San Diego Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1164) ADOPTED AS RESOLUTION R-299193

Proclaiming May 15, 2004 to be "Recovery Games of San Diego Day" in the City of San Diego, and encouraging all San Diegans to attend the games and to share the pride of the Recovery Games of San Diego participants.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

* ITEM-117: 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-2004-1103) ADOPTED AS RESOLUTION R-299194

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. – 2:14 p.m.)

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

- * ITEM-118: 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-2004-762) ADOPTED AS RESOLUTION R-299195

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. – 2:14 p.m.)

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

- * ITEM-119: 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-2004-764) ADOPTED AS RESOLUTION R-299196

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. – 2:14 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. 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-120: 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-2004-928) ADOPTED AS RESOLUTION R-299197

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. – 2:14 p.m.)

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

ITEM-S400: Ty Rogers Day.

COUNCILMEMBER LEWIS' RECOMMENDATION:

Adopt the following resolution:

(R-2004-1170) ADOPTED AS RESOLUTION R-299198

Commending Ty Rogers for the exceptional dedication and commitment he has bestowed to all communities in San Diego;

Proclaiming May 10, 2004 to be "Ty Rogers's Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:30 p.m. – 2:36 p.m.)

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

* ITEM-S401: Victories of Spirit Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1177) ADOPTED AS RESOLUTION R-299199

Commending Sharp Health Care Rehabilitation Services for their continued dedication to those who have suffered from traumatic injuries or illness;

Proclaiming May 13, 2004 to be “Victories of Spirit Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

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

ITEM-S402: Engineering and General Contractors Association Day.

COUNCILMEMBER INZUNZA’S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1141) ADOPTED AS RESOLUTION R-299200

Acknowledging and applauding the special contributions, spirit, and commitment of the Engineering and General Contractors Association (EGCA) and its members;

Proclaiming May 10, 2004 to be “Engineering and General Contractors Association Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:36 p.m. – 2:40 p.m.)

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

* ITEM-S403: Appointments and Reappointments to the Board of Building Appeals and Advisors.

(See memorandum from Mayor Murphy dated 5/5/2004, with resumes attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1196) ADOPTED AS RESOLUTION R-299201

Council confirmation of the following appointments and reappointments by the Mayor to serve as members of the Board of Building Appeals and Advisors, in categories and terms ending as indicated;

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Arturo M. Castro (Reappointment)	Architect	March 1, 2006
Scot Deal (Reappointed)	Fire Protection Engineer	March 1, 2006
Jean Marie Libby (Reappointed)	Civil Engineer	March 1, 2006
Dinesh K. Patel (Reappointed)	Fire Protection Engineer	March 1, 2006
James Arnold (Replacing Dale W. Naegle, who resigned)	Disabled Community Representative	March 1, 2005
Lyle Gabrielson (Replacing Richard G. Grabhorn, whose term expired)	Civil Engineer	March 1, 2006

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:10 p.m. – 2:14 p.m.)

CONSENT MOTION BY MADAFFER TO APPROVE THE APPOINTMENTS AND REAPPOINTMENTS. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 6:39 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 6:36:p.m. – 6:39 p.m.)