THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, MAY 24 2004
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Table of Contents

CHRONOLOGY OF THE MEETING 4

ATTENDANCE 4

ROLL CALL 4

ITEM-10: INVOCATION 5

ITEM-20: PLEDGE OF ALLEGIANCE 5

ITEM-30: Approval of Council Minutes 5

ITEM-31: Water Awareness Month 6

ITEM-32: Gary Reming Day 6

SPECIAL CLOSED SESSION ITEMS 7

ITEM-50: Right-of-Way Use Agreement with NextG Networks of California, Inc. 12

ITEM-51: Fiscal Year 2004-2005 Salary Ordinance 13

ITEM-52: Water Service Franchise Agreement with the California-American Water Company 13

ITEM-53: Amending the San Diego Municipal Code Relating to Fires, Waste, and Refuse at Designated Areas and Public Beaches 14

ITEM-100: Inviting Bids for Slurry Sealing of Various Streets City Wide Group S-8 14

ITEM-101: Transfer of Funds from Skyview Neighborhood Park Fund to Parkside Neighborhood Park Fund 17

ITEM-102: Accepting Transportation Development Act/TransNet Funds for Via De La Valle Bikeway 19

ITEM-103: Transfer of Funds for Lakeview Neighborhood Park – Comfort Station 20

ITEM-104: Grant Applications to the Indian Gaming Local Community Benefit Committee 22

ITEM-105: Cooperative Agreement with Caltrans for Relinquishment of 36th Street 23

ITEM-106: Consultant Agreement with Fuscoe Engineering Company to Provide Land Use Planning for a Proposed Emergency Vehicle Operations Course on United States Marine Corps Air Station Miramar Property for the San Diego Regional Public Safety Training Institute (RPSTI) 25

ITEM-107: Park Reimbursement Agreement with Sea Breeze Investments, LLC, for the Acquisition and Site Development of the Del Mar Mesa Neighborhood Park..... 27

ITEM-108: Contract Change Order No. 7 – Resurfacing Various Streets Citywide Group.... 28

ITEM-109: Participation on the Rebuild A Greener San Diego Program 30

ITEM-110: Settlement Agreement in Gleason v. SDCERS, et al..... 32

ITEM-111: Appointments and Reappointments to the Historical Resources Board 33

ITEM-112: Excusing Councilmember Jim Madaffer from the May 12, 2004 NR&C Committee Meeting 34

ITEM-113: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico 35

ITEM-114: Declaring a Continued State of Emergency Due to Economic Circumstances in he San Diego-Tijuana Border Region..... 35

ITEM-115: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) 36

ITEM-116: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City 37

ITEM-200: Torrey Highlands Maintenance Assessment District..... 37

ITEM-201: Peñasquitos East Maintenance Assessment District 39

ITEM-202: Rancho Bernardo Maintenance Assessment District 41

ITEM-203: Special Hearing – FY 2005 Social Service Program Funding 43
ITEM-204: Two actions related to Fiscal Year 2004 Year-End Financial Status and Budget Adjustments 44

ITEM-250: SUBMISSION OF BALLOT PROPOSALS 45

ITEM-S400: National Beach Safety and Safe Boating Weeks 46

ITEM-S401: Requesting an Expedited Order for the Clean-Up of the Qualcomm Stadium Property and the Mission Valley Aquifer 47

ITEM-S402: Debarment of Southern California Underground Contractors, Inc. 48

ITEM-S403: Excusing Councilmember Zucchet from the Natural Resources and Culture Committee Meeting on May 12, 2004 49

ITEM-S404: Critical Incident Management Unit Grant from the San Diego Police Foundation.. 50

NON-DOCKET ITEMS 51

ADJOURNMENT 51

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:10 p.m. Mayor Murphy recessed the meeting at 3:00 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:12 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 5:09 p.m. into Closed Session to discuss pending litigation and potential negotiations.

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/Maland (ek)

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 Reverend Deron Matson
of the Mid-City Nazarene Church

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Michael Zucchet.

FILE LOCATION: MINUTES

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

05/03/2004
05/04/2004

FILE LOCATION: MINUTES

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

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

ITEM-31: Water Awareness Month.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1222) ADOPTED AS RESOLUTION R-299251

Supporting the exemplary efforts of the Water Department;

Proclaiming May 2004 to be "Water Awareness Month" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:45 p.m.)

MOTION BY FRYE 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-32: Gary Reming Day.

COUNCILMEMBER INZUNZA'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1178) ADOPTED AS RESOLUTION R-299252

Proclaiming May 24, 2004 to be "Gary Reming Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:46 p.m. – 2:50 p.m.)

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

SPECIAL CLOSED SESSION ITEMS

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

CS-1 *City of San Diego v. Gonsalves, et al. San Diego*
San Diego Superior Court No. GIC 771345-1

REFERRED TO CLOSED SESSION ON MONDAY, MAY 24, 2004

DCA assigned: Claudia Silva

The City is acquiring approximately 5.5 acres of a 40-acre parcel for State Route 56. The property is unimproved, "raw" land located in Subarea III of the North City Future Urbanizing Area. In closed session, the City Attorney and the City's outside counsel will report to the City Council on the proposed settlement of the litigation and seek direction on a proposed settlement.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:58 p.m. – 2:58 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 MONDAY, MAY 24, 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: 2:58 p.m. – 2:58 p.m.)

Mayor Murphy closed the Hearing.

CS-3 *Building Industry Association, Inc. v. City of San Diego*
San Diego Superior Court Case No. GIC 817074

REFERRED TO CLOSED SESSION ON MONDAY, MAY 24, 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 [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: 2:59 p.m. – 2:59 p.m.)

Mayor Murphy closed the Hearing.

CS-4 *Anna Hofmeister and Lisa M. Vargas v. City of San Diego*
San Diego Superior Court Case No. GIC 795907

REFERRED TO CLOSED SESSION ON MONDAY, MAY 24, 2004

DCA assigned: Mark Stiffler

This is a personal injury case in which Plaintiffs contend that they were sexually harassed while employed as paramedics in the San Diego Fire Department. In closed session, the City Attorney will report to the City Council on settlement negotiations and the status of the case.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:59 p.m. – 2:59 p.m.)

Mayor Murphy closed the Hearing.

CS-5 *Gleason v. San Diego City Employees' Retirement System*
San Diego Superior Court Case No. GIC 803779

REFERRED TO CLOSED SESSION ON MONDAY, MAY 24, 2004

HDCA Assigned: Christopher Morris

This matter involves litigation concerning the City's retirement system and the City's obligation to fund that system. A tentative settlement has been reached with the plaintiffs, the terms of which generally involve certain payments by the City to the system in each of Fiscal Years 2005, 2006, 2007 and 2008. In closed session, the City Attorney and the City's outside counsel will report to the City Council on the conduct of negotiations to finalize a settlement agreement, and the status of the court proceedings to implement the settlement.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:59 p.m. – 2:59 p.m.)

Mayor Murphy closed the Hearing.

Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code section 54956.9(b):

CS-6 In the matter of *City of San Diego Bond Offerings*, Securities & Exchange Commission No. LA-2842, and United States Attorney's Office Investigation into certain City of San Diego Financial Disclosure Matters.

REFERRED TO CLOSED SESSION ON MONDAY, MAY 24, 2004

ACA assigned: Les Girard

The federal Securities & Exchange Commission and the United States Attorney's Office for the Southern District of California have initiated investigations into certain financial disclosure matters of the City. The investigations were initiated in mid-February, 2004, and the City has been cooperating with the investigating authorities in the course of the investigations to-date. In closed session, the City's outside counsel and the City Attorney will advise the City Council on the progress of the investigations and legal issues relating to the City's response to and cooperation with the investigating authorities.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:59 p.m. – 2:59 p.m.)

Mayor Murphy closed the Hearing.

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

CS-7 Property: Qualcomm Stadium

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.

REFERRED TO CLOSED SESSION ON MONDAY, MAY 24, 2004

ACA assigned: Les Girard

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: 3:00 p.m. – 3:00 p.m.)

Mayor Murphy closed the Hearing.

Conference with Labor Negotiator, pursuant to Government Code section 54957.6:

CS-8 Agency negotiators: Lamont Ewell, Cathy Lexin, Mike McGhee, Christopher Morris

Employee organizations: Municipal Employees Association, Local 127 AFSCME, AFL-CIO, Local 145 International Association of Firefighters AFL-CIO, San Diego Police Officers Association

REFERRED TO CLOSED SESSION ON MONDAY, MAY 24, 2004

HDCA assigned: Chris Morris

In closed session, the City Manager and the City's negotiators will review with the City Council the City's position with respect to the salary and fringe benefits of the represented employees, and request instructions from the City Council as to those matters.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:00 p.m. – 3:00 p.m.)

* ITEM-50: Right-of-Way Use Agreement with NextG Networks of California, Inc.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 5/10/2004. (Council voted 9-0):

(O-2004-129) ADOPTED AS ORDINANCE O-19281 (New Series)

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: DEED F-9731

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:17 p.m.)

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

* ITEM-51: Fiscal Year 2004-2005 Salary Ordinance.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 5/11/2004 (Council voted 8-1. Councilmember Frye voted nay):

(O-2004-132) ADOPTED AS ORDINANCE O-19282 (New Series)

Establishing a schedule of compensation for officers and employees of the City of San Diego for the Fiscal Year 2004-2005.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:17 p.m.)

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

* ITEM-52: Water Service Franchise Agreement with the California-American Water Company.

(Egger Highlands, Palm City, Nestor, and Otay Mesa West Franchise Areas.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 5/11/2004. (Council voted 9-0):

(O-2004-135) ADOPTED AS ORDINANCE O-19283 (New Series)

Granting a water service franchise to the California-American Water Company.

NOTE: 6 votes required pursuant to Section 103 of the City Charter.

FILE LOCATION: FRAN-California-American Water Company (07)

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:17 p.m.)

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

* ITEM-53: Amending the San Diego Municipal Code Relating to Fires, Waste, and Refuse at Designated Areas and Public Beaches.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 5/11/2004. (Council voted 9-0):

(O-2004-126 Rev.) ADOPTED AS ORDINANCE O-19284 (New Series)

Amending Chapter 6, Article 3, Section 63.20.5 of the San Diego Municipal Code, relating to fires, waste, and refuse at designated areas and public beaches.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:17 p.m.)

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

* ITEM-100: Inviting Bids for Slurry Sealing of Various Streets City Wide Group S-8.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1118) ADOPTED AS RESOLUTION R-299253

Approving the plans and specifications for the construction of "Rubberized Emulsion Aggregate Slurry Coating of Various Streets City Wide Group S-8" (Project) on Work Order No. 576510;

Authorizing the City Manager, after advertising for bids in accordance with law, to award the Project contract to the lowest responsible and reliable bidder in an amount not to exceed $1,478,158, 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;

Amending the Fiscal Year 2004 Capital Improvement Program Budget for CIP-59-001.0, Annual Allocation-Resurfacing City Streets in Street Division Resurfacing Fund 104402, by increasing the budget amount by $71,008;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed $71,008 from Fund 10440 to Fund 104402 for the purpose of funding CIP-59-001.0;

Amending the Fiscal Year 2004 Capital Improvement Program Budget by adding CIP-59-020.0, Del Mar Terrace Slurry Seal/Resurfacing;

Amending the Fiscal Year 2004 Capital Improvements Program Budget for CIP-59-020.0, Del Mar Terrace Slurry Seal/Resurfacing, by increasing the budget amount by $42,803;

Authorizing the City Auditor and Comptroller to establish a special interest bearing fund, Fund 702461, Del Mar Terrace Street Repair;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed $36,552 from Fund 70246, Del Mar Terrace Maintenance Assessment District, to Fund 702461, Del Mar Terrace Street Repair;

Authorizing the City Auditor and Comptroller to accept an amount not to exceed $6,251 from SBC to be deposited in Fund 63022, Private Contribution for the purpose of providing funds for the slurry sealing of the Del Mar Terrace Assessment District;

Authorizing the appropriation and expenditure of an amount not to exceed $710,081 from CIP-59-001.0, Fund 30300, an amount not to exceed $71,008 from CIP-59-001.0, Fund 104402; and an amount not to exceed $36,552 from CIP-59-020.0, Fund 702461; an amount not to exceed $6,251 from CIP-59-020.0,

Fund 63022; and an amount not to exceed $654,266 from CIP-37-028.0, Fund 30100, for the purpose of providing funds for "Rubberized Emulsion Aggregate Slurry Coating of Various Streets City Wide Group S-8," 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. (BID-K041662C)

CITY MANAGER SUPPORTING INFORMATION:

This Slurry Seal contract is part of the City's annual street maintenance program, and also includes some streets which have recently had overhead utilities placed underground. Slurry Seal is a pavement surface treatment applied as part of a comprehensive pavement maintenance program. It is used on streets which are in good condition to protect them from deterioration. The Street Division uses Rubberized Emulsion Aggregate Slurry (REAS). This type of Slurry Seal coating lasts longer, resists damage better from water/rain, and stays black in color longer. Slurry sealing, when used in a timely manner can be very effective in reducing the need for later, more expensive pavement repairs. The Street Division's portion of this contract provides for the sealing of approximately 32.5 miles throughout the city. Locations for Slurry Seal coating are chosen through the use of annual surveys, and the City's Pavement Management System, using the following criteria: age, oxidation, cracking, and amount of traffic carried. Accordingly, a preliminary list of locations has been identified. Due to ongoing construction city wide, the list of locations for this project will be finalized just prior to the start of the contract. Construction is expected to begin in July of 2004, and will take approximately two months.

In coordination with the Engineering and Capital Projects Department, this contract will also provide for the slurry sealing of 22 underground utility conversion projects citywide as well as the Del Mar Terrace Maintenance Assessment District. These projects are: B St. and C St. Phase I, B St. Phase II, Balboa Ave., CCDC Area 3 Phase I, CCDC Area 3 Phase II, Del Cerro Bl., Fort Stockton Dr., Goldfinch St., Jamacha Rd., Kelton Rd., La Jolla Mesa Dr. (Deerhill Dr.), La Jolla Mesa Dr. (Turquoise), La Jolla Shores, Orange Ave., Scripps Lake Dr., Silverado St., Stream View Dr., Sunset Blvd., West Point Loma Blvd., Zion Ave., and Del Mar Terrace (Maintenance Assessment District). The Mayor and Council will be provided with the final list of streets as soon as it is available.

FISCAL IMPACT:

Funds for this project are available as follows: $710,081 in CIP-59-005.1, TransNet Fund 30300, $36,552 from the Del Mar Terrace Maintenance Assessment District Fund 70246 Job Order Number 095046, $654,266 in Undergrounding Surcharge Fund 30100, CIP-37-028, $6,251 from CIP-590200, Fund 63022, and $71,008 in Street Division Operating Fund 10440 which consists of $10,012 for Design, $6,675 for Project Management, $3,764 for Inspection, and $50,557 for additional work by City Forces.

Loveland/Gonzalez/MMW

Aud. Cert. 2401018.

FILE LOCATION: CONT – American Asphalt South, Inc.; W.O. 576510

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-101: Transfer of Funds from Skyview Neighborhood Park Fund to Parkside Neighborhood Park Fund.

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

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1197) ADOPTED AS RESOLUTION R-299254

Authorizing the City Manager to transfer Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 – Roberti-Z'Berg-Harris Per Capita Bond funds, in the amount of $33,000 from CIP-29-522.0, Skyview Neighborhood Park, Fund No. 38175, to CIP-29-520.0, Parkside Neighborhood Park, Fund No. 38175;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed $33,000 from CIP-29-520.0, Parkside Neighborhood Park, Fund No. 38175, Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 – Roberti-Z'Berg-Harris Per Capita Bond funds, for the purpose of constructing alternatives for the upgrade of the existing play area.

CITY MANAGER SUPPORTING INFORMATION:

Both the Skyview and Parkside Neighborhood Parks are located in the Skyline/Paradise Hills Community. The renovation of these two existing play areas will provide for the upgrade of existing play equipment and path of travel to meet state and federal safety and accessibility guidelines. This requested action authorizes the City Manager, or his representative, to transfer Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000-Roberti-Z'Berg-Harris Per Capita Bond funds in the amount of $33,000 from CIP-29-522.0, Skyview Neighborhood Park, to CIP-29-520.0, Parkside Neighborhood Park.

Both Skyview and Parkside projects opened bids in February 2004 and were under the engineering estimates. Adequate construction contingencies were budgeted for each of the projects. Because the successor bidder came in 20% under Skyview's engineering estimate, there are excess funds available to construct community requested alternates for the Parkside project. These alternates include resilient surfacing and additional play area equipment. As a result of this action, both the Skyview and Parkside neighborhood parks will be constructed as in the proposed scope of work including all additive alternatives.

FISCAL IMPACT:

This action involves transfers of funds only. The requested transfer funds in the amount of $33,000 are available from Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000-Roberti-Z'Berg-Harris Per Capita Bond funds, Fund No. 38175. Annual maintenance costs at the Parkside and Skyview Neighborhood Parks due to added improvements will be determined as improvements occur.

Herring/Oppenheim/AP

Aud. Cert. 2401067.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-102: Accepting Transportation Development Act/TransNet Funds for Via De La Valle Bikeway.

(Via De La Valle Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1180) ADOPTED AS RESOLUTION R-299255

Authorizing the City Manager to accept $51,000 in Transportation Development Act/TransNet Funds from SANDAG for the Via De La Valle Bikeway project;

Authorizing the City Auditor and Comptroller to increase the FY2004 budget by $51,000 in CIP-58-077.0, Via De La Valle Bikeway, Fund No. 30301;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed $51,000 from CIP-58-077.0, Via De La Valle Bikeway, Fund No. 30301, contingent upon Auditor's certification that funds are, or will be, on deposit with the City Treasurer.

CITY MANAGER SUPPORTING INFORMATION:

When complete, this project will provide a bicycle facility on both sides of Via De La Valle between San Andres Drive and El Camino Real. A striped 5-foot-wide Class II Bike Lane would be located on Via De La Valle between San Andres Drive and 450 feet west of Santa Fe Downs. A five-foot wide Class II Bike Lane would be installed from Santa Fe Downs to El Comino Real west. Total project length is approximately 1.1 miles.

This action will accept, appropriate, and expend $51,000 in Transportation Development Act (TDA)/TransNet Funds from SANDAG for this project.

FISCAL IMPACT:

$51,000. Accepting, appropriating, and expending $51,000 in CIP-58-077.0, Via De La Valle Bikeway.

Loveland/Belock/VW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-103: Transfer of Funds for Lakeview Neighborhood Park – Comfort Station.

(Scripps Miramar Ranch Community Area. District-5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1010) ADOPTED AS RESOLUTION R-299256

Authorizing a $150,000 increase in the Fiscal Year 2004 Capital Improvements Program Budget in CIP-29-403.0, Fund No. 11230;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed $150,000 from CIP-29-403.0, Lakeview Neighborhood Park-Comfort Station, for the purpose of construction of a comfort station;

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:

This project provides for a single unit comfort station at Lakeview Neighborhood Park in the community of Scripps Miramar Ranch. This is a heavily used park which is currently served by porta-potties. The community requested a permanent facility, therefore $100,000 was originally programmed.

The original location that was proposed for this comfort station was the south side of the parking lot but was then relocated to the northeast corner of the lot to stay clear of the Multi Habitat Protection Area. In addition to the comfort station, the scope of work includes accessibility improvements to provide access from park and accessible parking to the proposed comfort station and utility hookups for electrical, water and sewer to the proposed building structure. The sewer connection also requires a pump due to the elevation of the parking lot relative to the sewer main in the adjacent street.

The bids were opened on April 27, 2004; the low bid was $177,541 by CDM Construction Incorporated. The construction contract will be awarded pending this transfer of funds.

FISCAL IMPACT:

The estimated project cost is $250,000 of which $100,000 has been previously approved. The remaining funds are available in Scripps Ranch Special Park Fees, Fund No. 11230. The funds are coming from the Scripps Ranch Special Park Fees, Fund No. 11230, which are programmed for the Ahrens Field Improvements, Project 34-24, in the Fiscal Year 2003 Scripps Miramar Ranch Public Facilities Financing Plan. The Ahrens Projects are scheduled for Fiscal Years 2009-10. Due to a reduction in the Scope of the Ahrens Field Project, the funds have been made available for Lakeview Neighborhood Park. The Scripps Ranch PFFP will be amended accordingly in a subsequent update, scheduled for FY 2005.

Herring/Oppenheim/AP

Aud. Cert. 2401049.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-104: Grant Applications to the Indian Gaming Local Community Benefit Committee.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1237) ADOPTED AS RESOLUTION R-299257

Authorizing the Chief of Police to apply for, accept, manage, and expend these grants, including any amendments, extensions, or renewals, for a period of up to five years, provided funding is made available by the State of California;

Authorizing the Chief of Police to execute all aspects of program operation, including any amendments, extensions, or renewals, and to certify that the City will comply with all applicable statutory or regulatory requirements related to this program;

Certifying any resources received hereunder shall not be used to supplant expenditures controlled by this body.

CITY MANAGER SUPPORTING INFORMATION:

State law created in the State treasury an Indian Gaming Revenue Sharing Trust Fund and an Indian Gaming Special Distribution Fund. State Senate Bill 621 established methods and criteria for distributing these funds to local government agencies impacted by tribal gaming. In order to be competitive for these funds, applicants must be sponsored by a local gaming tribe. Representatives of local tribes have invited the San Diego Police Department to apply for the following:

- Command vehicle and equipment for coordination and communication in disasters, emergencies, and large-scale incidents and events: $400,000
- Mounted Patrol resources, including horses, tack, truck and trailer to facilitate crowd control, rural/wildland access, search and rescue, evacuations, and other appropriate activities: $151,000
- Emergency negotiation vehicle and equipment hostage, suicide, high-risk warrant, and similar activities: $178,721
- Ballistic vests (120) for SWAT Team members: $114,000

Total Requested: $843,721

Each of these is a critical safety and enforcement resource that SDPD has been unable to acquire or replace for many years, with the result that our existing equipment is worn, obsolete and inadequate. These grants provide an opportunity to enhance vital emergency equipment with minimal cost to the City.

It is anticipated that the Indian Gaming Local Community Benefit Committee will select the projects to be funded at the end of May 2004 and State Controller's Office will allocate the money to grant recipients by June 30, 2004. Only grant requests for projects that can be initiated soon after funding is allocated will be considered. Therefore, it is requested that approval of this Council Resolution be expedited.

SB 621 requires that grant recipients provide notice to the public, through slogan, signage or other mechanism, that the project has received funding from the Indian Gaming Special Distribution Fund, and identifying the particular Individual Tribal Casino Account from which the grant derives. This requirement will be met through discreet signage attached to equipment where feasible, and through media releases.

FISCAL IMPACT:

There is no requirement for matching funds, and no requirement to continue grant funded activities or expenditures after grant funds are exhausted or terminated. The San Diego Police Department will assume all ongoing maintenance and operation costs from the existing budget. However, in many cases ongoing costs will be offset by the greater reliability and efficiency of the new equipment compared to the old.

Ewell/Lansdowne/DJW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-105: Cooperative Agreement with Caltrans for Relinquishment of 36th Street.

(Southeastern San Diego, Mount Hope, and Mountain View Community Areas. District-4.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1214) ADOPTED AS RESOLUTION R-299258

Authorizing the City Manager to execute a Cooperative Agreement with Caltrans, for the relinquishment of 36th Street, between Imperial Avenue and Market Street, to the City of San Diego;

Authorizing the City Auditor and Comptroller to add CIP-52-738.0, Landscape Maintenance of 36th Street between Imperial Avenue and Market Street, to the FY2004 Capital Improvements Program;

Authorizing the City Auditor and Comptroller to establish a new special fund for the purpose of depositing the Caltrans funds, contingent upon the Cooperative Agreement being executed;

Accepting $50,000 from the California Department of Transportation and deposit the funds in CIP-52-738.0, Landscape Maintenance for 36th Street between Imperial Avenue and Market Street;

Authorizing the City Auditor and Comptroller to increase the FY2004 Capital Improvements Program budget by $50,000 in CIP-52-738.0, Landscape Maintenance for 36th Street between Imperial Avenue and Market Street;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed $50,000 from CIP-52-738.0, Landscape Maintenance for 36th Street between Imperial Avenue and Market Street, for the purpose of landscape maintenance, contingent upon the City Auditor and Comptroller first certifying that the funds are available.

CITY MANAGER SUPPORTING INFORMATION:

In 2001 Caltrans made improvements to State Route 15 between State Route 94 (Martin Luther King Jr Freeway) and Ocean View Boulevard. These improvements and new Federal Highway standards required the removal of the SR-15/Imperial Avenue interchange. As mitigation for the removal of this interchange, 36th Street was extended from K Street to Imperial Avenue, and improvements were made to 36th Street between K Street and Market Street. Caltrans also

provided landscape improvements in the corridor, and has been maintaining this landscaping since project completion.

The State of California wishes to relinquish the segment of 36th Street between Market Street and Imperial Avenue to the City of San Diego. As part of the relinquishment process, the State is contributing $50,000 to the City. It is recommended that these funds be used for maintenance of existing landscaping in the 36th Street corridor.

FISCAL IMPACT:

Accepting $50,000 from the State of California and depositing said funds in CIP-52-738.0, Landscape Maintenance for 36th Street between Imperial Avenue and Market Street. After the State funds have been fully expended, future maintenance costs will impact the department's operating budget.

Mendes/Boekamp/LVW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-106: Consultant Agreement with Fuscoe Engineering Company to Provide Land Use Planning for a Proposed Emergency Vehicle Operations Course on United States Marine Corps Air Station Miramar Property for the San Diego Regional Public Safety Training Institute (RPSTI).

(See City Manager Report CMR-04-072. District-7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-988) ADOPTED AS RESOLUTION R-299259

Declaring that the development of RPSTI emergency vehicle training course will be tracked through CIP-36-064.0, and CIP-36-066.0 will be dissolved;

Authorizing the City Auditor and Comptroller to appropriate $4,167 from the Fire Rescue Department operating budget and $4,167 from the Police Department operating budget into CIP-36-064.0, Fund 630221, Contributions from the 100 Fund;

Authorizing the City Manager to accept $8,333 from the County of San Diego and $8,333 from the San Diego Community College District to be deposited into Fund 63022, Private and Other Contributions – CIP;

Authorizing the City Auditor and Comptroller to appropriate $16,666 from Fund 63022 into CIP-36-064.0, Police Department: Police and Fire Training Facility – Regional Public Safety Training Institute;

Authorizing the $25,000 increase in the Fiscal Year 2004 CIP budget in CIP-36-064.0, Police and Fire Training Facility – Regional Public Safety Training Institute, Fund 63022 and Fund 630221;

Authorizing the City Manager to enter into an agreement with Fuscoe Engineering Company to provide professional consulting services for the RPSTI JPA, specifically to complete "Tier Two" of the application process with the United States Marine Corps in furtherance of using land at Miramar for an emergency vehicle training course;

Authorizing the expenditure of funds not to exceed $95,000 from CIP-36-064, Police Department: Police and Fire Training Facility – Regional Public Safety Training Institute, Fund 630221 Contributions from the General Fund, and Fund 63022, Private and Other Contributions – CIP, for the purpose of executing a consulting agreement with Fuscoe Engineering for environmental and land use planning for an emergency vehicle operations course on USMCAS Miramar property, contingent upon receipt of funds from San Diego County and the San Diego College District;

Authorizing the City Auditor and Comptroller to reduce the current encumbrance in CIP-36-064.0 for Rick Engineering from $480,000 to $410,000, to accurately reflect the final contract cost and to allocate the difference of $70,000 to offset the cost of contracting with Fuscoe Engineering.

Aud. Cert. 2400892.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-107: Park Reimbursement Agreement with Sea Breeze Investments, LLC, for the Acquisition and Site Development of the Del Mar Mesa Neighborhood Park.

(Del Mar Mesa Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1165) ADOPTED AS RESOLUTION R-299260

Authorizing the City Manager to execute Park Reimbursement Agreement for the Del Mar Mesa Neighborhood Park (Agreement) with Sea Breeze Investments, LLC, for acquisition and site development of the Del Mar Mesa Neighborhood Park (Project);

Authorizing the City Auditor and Comptroller to expend an amount not to exceed $984,603 from CIP-29-533.0, Del Mar Mesa Neighborhood Park, Fund No. 79010, contingent upon certification by the City Auditor and Comptroller that the revenues are available at the time reimbursement is scheduled for this Project.

CITY MANAGER SUPPORTING INFORMATION:

The proposed Del Mar Mesa Neighborhood Park is approximately 3.7 acres in size and is located within the "Vesting Tentative Map" area of the Del Mar Mesa community in southern Carmel Valley. Execution and implementation of this proposed Park Reimbursement Agreement between the City of San Diego and Sea Breeze Investments, LLC (Subdivider), will satisfy condition No. 37 of the Duck Pond Ranch Tentative Map (TM-99-0729) approved by City Council on August 7, 2001, Resolution R-295387.

The Subdivider will advance the funds to construct the rough grading, street improvements and associated utilities to serve the park. The Subdivider will be reimbursed for acquisition, design and construction per the agreement, in either Facilities Benefit Assessment credit or cash. Cash reimbursements will occur as provided for in the current Del Mar Mesa Public Facilities Financing Plan (PFFP), or as cash becomes available if not available when allowed for by the PFFP. The PFFP allows for reimbursement between FY 2003 and 2005.

FISCAL IMPACT:

All approved costs associated with the acquisition, design and construction of this project are funded through the Del Mar Mesa Facilities Benefit Assessment, Fund No. 79010. Annual maintenance costs are estimated to be $4,000 until full development of the park scheduled in FY 2004 and 2005.

Herring/Oppenheim/AP

Aud. Cert. 2401066.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-108: Contract Change Order No. 7 – Resurfacing Various Streets Citywide Group R-6.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1217) ADOPTED AS RESOLUTION R-299261

Approving Change Order No. 7, dated April 5, 2004, issued in connection with the contract between the City of San Diego and Superior Ready Mix Concrete, dba SRM Contracting and Paving, and the changes therein set forth, amounting to a net increase in the contract price of $656,488.36;

Authorizing the expenditure of an amount not to exceed $541,610.86 from CIP-37-028.0, Undergrounding Annual Allocation, Undergrounding Surcharge Fund No. 30100, contingent upon the receipt of funds from SDG&E; an amount not to exceed $75,719 from Waste Management Enterprise Fund No. 41200; an amount not to exceed $6,708 from MWWD Manhole Inspection Fund No. 41506; and an amount not to exceed $32,450.50 from Sewer Fund No. 41508, for the purpose of providing funds to execute Contract Change Order No. 7 with Superior Ready Mix Concrete;

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

CITY MANAGER SUPPORTING INFORMATION:

On October 21, 2002, the City Council authorized the City Manager to execute a contract extension option with Superior Ready Mix Concrete, dba SRM Contracting and Paving for the Resurfacing of Various Streets City Wide Group R-6 in the amount of $4,273,750.

On February 18, 2003, Contract Change Order #1 added $62,352.93 for the resurfacing of Tenth Avenue following the completion of Sewer Group 464C. On March 4, 2003, Contract Change Order #2 added $25,000 for additional materials required for the resurfacing of Sherman Street. On May 20, 2003, the City Council approved Contract Change Order #3, which reduced the contract by $1,000,000 due to a reallocation of AB 2928 funds from the State of California. On June 17, 2003, the City Council approved Contract Change Order #4, which increased the amount of the contract by $222,273.72 for resurfacing of streets in cooperation with the Engineering Department's Utility Undergrounding program. Contract Change Order #5 added $194,417 for replacement of damaged sidewalks at 62 additional locations. On February 9, 2004, the City Council approved Contract Change Order #6, which increased the contract by $245,051.50 for final paving related to Water and Sewer Group 539.

Contract Change Order #7 will provide for the re-paving of the entrance and access road to the Miramar Landfill and the City Metro Biosolids Center, as well as the final paving of five underground utility conversion projects citywide. This action will increase the contract by $656,488.36 from $4,022,845.15 to $4,679,333.51.

FISCAL IMPACT:

$656,488.36 for Contract Change Order #7 is available as follows: $6,708 from MWWD Manhole Inspection Fund 41506, $32,450.50 from Sewer Fund 41508, $75,719 from Waste

Management Enterprise Fund 41200, and $541,610.86 from Undergrounding Surcharge Fund 30100, CIP-37-028.0. CIP-37-028.0 sublet funding is as follows: $170,607.42 from Sublet account 372970 $36,829.54 from Sublet account 373019, $156,958.83 from Sublet account 372989, $80,970.82 from Sublet account 372987, and $96,244.25 from Sublet account 370311. These funds were previously authorized by Council Resolutions R-291118, R-293849, R-293140, R-293334, and R-297712.

Loveland/Gonzalez/MDD

Aud. Cert. 2401078.

FILE LOCATION: CONT-Superior Ready Mix Concrete, dba SRM Contracting & Paving W.O. 005765

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-109: Participation on the Rebuild A Greener San Diego Program.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1031) ADOPTED AS RESOLUTION R-299262

Approving the City's participation with the County of San Diego, the San Diego Regional Energy Office, and San Diego Gas & Electric Company, in the Rebuild A Greener San Diego Program;

Authorizing the City Manager to execute a partnership agreement with the County of San Diego, the San Diego Regional Energy Office, and San Diego Gas & Electric Company, for the management and administration of the Rebuild A Greener San Diego Program;

Authorizing the City Auditor and Comptroller to transfer the amount of $800,000 from the expiring Whole House Energy Retrofit Program, Fund No. 10231, Dept. 514, Revenue Account 76410, to Fund No. 102313;

Approving the expenditure of an amount not to exceed $800,000 from Fund No. 102313 to provide funds for the Rebuild A Greener San Diego Program.

CITY MANAGER SUPPORTING INFORMATION:

The City of San Diego, the County of San Diego, the San Diego Regional Energy Office, and San Diego Gas & Electric have joined forces to pool resources to provide energy efficiency and self generation guidance and financial help to the October fire victims in San Diego county. This partnership is being put forward as the Rebuild A Greener San Diego Program. This program will provide three types of assistance to fire victims: 1) technical information and guidance, 2) financial incentives for the incorporation of energy efficient measures that will result in homes that significantly increase the energy savings that would have resulted from the applicable Title 24 construction permit requirements, 3) financial incentives for the installation of photovoltaic systems.

Under Resolution R-296631, City Council authorized the City Manager to accept the amount of $1,448,946 from the California Public Utilities Commission to fund the City's Whole House Energy Retrofit Incentive program (the Whole House Program) for calendar years 2002 and 2003. The Whole House Program will end on March 31, and $800,000 of unspent funds will return to CPUC control. The Rebuild A Greener San Diego Partnership has obtained permission from the California Public Utilities Commission to provide beneficial use of the remaining $800,000 to assist to the San Diego County October fire victims. Without further action, these funds revert to the CPUC on July 1, 2004.

With Council approval, the City of San Diego, the County of San Diego, the San Diego Regional Energy Office, and San Diego Gas & Electric will enter into an agreement establishing the terms and conditions of the management and administration of the Rebuild A Greener San Diego Program.

Approval of the recommendations of this request will result in no fiscal impact to the City.

Mendes/Heap/TB

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-110: Settlement Agreement in Gleason v. SDCERS, et al.

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 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 constitute 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.

Morris

Aud. Cert. 2401010.

FILE LOCATION: MEET

(Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT MOTION BY MADAFFER TO RETURN THIS ITEM TO THE CITY ATTORNEY FOR FURTHER REVIEW. MAYOR MURPHY DIRECTED THAT THIS ITEM BE PLACED ON THE DISCUSSION AGENDA AND NOT ON THE CONSENT AGENDA WHEN IT COMES BACK BEFORE COUNCIL FOR CONSIDERATION. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-111: Appointments and Reappointments to the Historical Resources Board.

(See memorandum from Mayor Murphy dated 5/11/2004, with resumes attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1225 Cor.Copy) ADOPTED AS RESOLUTION R-299263

Council confirmation of the following reappointments and appointments by the Mayor to serve as members of the Historical Resources Board for terms ending as indicated:

Reappointments	**Terms Ending**
Dr. Alexander Chuang	March 1, 2006
Homer Delawie	March 1, 2006
Louis Otto Emme	March 1, 2006
P. David Marshall	March 1, 2006
Marsha Sewell	March 1, 2006

Appointments

Maria Curry March 1, 2006
(Replaces Juan Ulloa, who resigned.)

Timothy J. Murphy March 1, 2006
(Replaces John Brooks, whose term has expired)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-112: Excusing Councilmember Jim Madaffer from the May 12, 2004 NR&C Committee Meeting.

COUNCILMEMBER MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1224) ADOPTED AS RESOLUTION R-299264

Excusing Councilmember Jim Madaffer from attending the regularly scheduled Natural Resources and Culture Committee Meeting on May 12, 2004. Councilmember Madaffer will be representing the City as a League of California City Board Member at the Annual League of Cities Legislative Action Day in Sacramento, California.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-113: 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-2004-1104) ADOPTED AS RESOLUTION R-299265

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: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-114: 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-2004-1089) ADOPTED AS RESOLUTION R-299266

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: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-115: 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-2004-1086) ADOPTED AS RESOLUTION R-299267

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: 2:16 p.m. - 2:17 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Zucchet. 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-116: 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-2004-929) ADOPTED AS RESOLUTION R-299268

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: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

ITEM-200: Torrey Highlands Maintenance Assessment District.

(Torrey Highlands Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1191) ADOPTED AS RESOLUTION R-299269

Resolution of Intention to form the Torrey Highlands Maintenance Assessment District and to levy and collect Fiscal Year 2005 Annual Assessments on Torrey Highlands Maintenance Assessment District.

CITY MANAGER SUPPORTING INFORMATION:

This action establishes Torrey Highlands Maintenance Assessment District (District) and authorizes the Fiscal Year 2005 assessment. The District, also referred to as "Subarea 4" of the North City Future Urbanizing Area, encompasses roughly 1,520 acres, and is generally located north of Los Penasquitos Preserve and east of Rancho Penasquitos. The purpose of the District is to fund maintenance of specified landscaped and hardscaped medians, landscaped rights-of-way, adjacent slopes, sidewalks, gutters, and brow ditches within the District. During February and March 2004, the District was balloted. On March 30, 2004, the weighted votes were tabulated, and the District was not formed due to a majority protest of 59% opposed and 41% in favor. It was subsequently determined that this ballot failed primarily as a result of the protest of a single large property owner. However, after the votes were tabulated, the property owner indicated that he erroneously protested the formation, and he volunteered to fund another ballot and campaign to form the District. This action authorizes the second balloting of this District in accordance with the actions taken on March 30, 2004, in accordance with Resolution R-299036.

	FY 2005(1)	Maximum Authorized(2)
EXPENSES		
Personnel	$0	$67,803
Contract	$0	$398,301
Incidentals (3)	$80,000	$92,546
Energy and Utilities	$0	$56,741
TOTAL EXPENSES	**$80,000**	**$615,391**
REVENUES		
Assessments--- Zone 1	$41,432	$195,348
Assessments--- Zone 2	$78,572	$370,397
Assessments--- Zone 3	$0	$99,739
City Contributions—Gas Tax	$0	$24,154
TOTAL REVENUES	**$120,004**	**$689,638**
RESERVES	**$40,004**	**$74,247**

(1) FY 2005 is the City's Fiscal Year 2005, which begins July 1, 2004 and ends June 30, 2005.
(2) Maximum authorized annual assessment subject to cost-indexing provisions

(3) contained in Assessment Engineer's Report.
(4) Includes cost of formation, assessment enrollment, oversight, and original ballot process of February/March 2004.

Proposed annual assessments have been calculated by an independent assessment engineer for the parcels within Torrey Highlands MAD based on each parcels' Equivalent Benefit Unit (EBU). For benefit apportionment purposes, Torrey Highlands MAD has been divided into three zones. The zone locations and unit assessment rates are as follows:

- Zone 1 – Core Area - Consists of all parcels in the District, except those in Zones 2 & 3:
  FY 2005 (proposed): $23.64 per EBU; Maximum (proposed): $111.46 per EBU;
- Zone 2 – Torrey Meadows and Torrey Santa Fe Area:
  FY 2005 (proposed): $43.51 per EBU; Maximum (proposed): $205.12 per EBU;
- Zone 3 – Southern Development Area - Camino Del Sur to the South, portions of Rhodes Crossing development and other non-residential land uses:
  FY 2005 (proposed): $0.00; Maximum (proposed): $111.46 per EBU.

FISCAL IMPACT:

Approximately $120,004 will be assessed and collected in Torrey Highlands Maintenance Assessment District in FY 2005. Total General Fund assessment for parkland in FY 2005 is $86.10.

Herring/Oppenheim/AWF

FILE LOCATION: STRT - M-497 (34)

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

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

ITEM-201: Peñasquitos East Maintenance Assessment District.

(Rancho Peñasquitos Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1113) ADOPTED AS RESOLUTION R-299270

Resolution of Intention to initiate proceedings for a ballot protest procedure for the Peñasquitos East Maintenance Assessment District and to levy and collect Fiscal Year 2005 Annual Assessments on Peñasquitos East Maintenance Assessment District.

CITY MANAGER SUPPORTING INFORMATION:

This action will increase the Fiscal Year 2005 assessments for Peñasquitos Maintenance Assessment District (District) and bring this district into compliance with Proposition 218. The District is located in the Rancho Peñasquitos Community Planning Area. It was established in July 1983 and was last balloted in 1998. For the last several years the District has been over-spending its income, and financing the maintenance of its current service level by spending down its reserve. In November 2003, the Peñasquitos East Maintenance Assessment District Committee voted to initiate the balloting of the District property owners to: (1) raise the annual assessment per Equivalent Benefit Unit (EBU) from $13.68 to $28.07 in Fiscal Year 2005, (2) incorporate new areas into the district, and (3) authorize a cost indexing factor of an amount not to exceed the San Diego CPI-U plus 3%. The purpose is to increase income sufficiently to cover the current service level, maintain a minimum 10% operating service, and fund small planting projects and their future maintenance through the assessment of property owners. The new district would provide maintenance for landscaped medians, hardscaped medians, landscaped right-of-ways, and open space.

	FY 2005	Maximum Authorized
EXPENSES:		
Personnel	$41,908	$73,342
Contract	$256,870	$449,544
Incidentals	$66,024	$116,311
Energy and Utilities	$28,378	$53,909
TOTAL EXPENSES	**$393,180**	**$693,106**

REVENUES:

Assessments	$396,195	$693,261
City Contributions - Environmental Growth Fund	$2,317	$2,317
City Contributions-Gas Tax	$26,069	$26,069
City Contributions-General Fund	$4,982	$4,982
Interest	$11,196	$11,196
TOTAL REVENUES	**$440,759**	**$737,825**
RESERVES	**$47,579**	**$44,719**

The proposed property owner assessment for Fiscal Year 2005 is $28.07 per EBU. A maximum assessment authorized for the District is $46.72 per EBU. The District contains a total of 14,107.19 EBUs.

FISCAL IMPACT:

It is proposed that the City will contribute $26,069 from the Gas Tax Fund 302191 for the City's share of expenses incurred for maintenance of street medians comparable to similar areas throughout the City. The City will also contribute $2,317 from Environmental Growth Fund 10505 for open space maintenance. Finally, the City will contribute $4,982 from the General Fund for grounds maintenance at the Peñasquitos Library. All other costs are assessed to property owners in the District. The City owns 14 assessable parcels in the district, including one fire station, one library, and several parks, resulting in a General Fund assessment in Fiscal Year 2005 of $3,771.

Herring/Oppenheim/AWF

FILE LOCATION: STRT – M-389 (34)

COUNCIL ACTION: (Time duration: 2:57 p.m. – 2:57 p.m.)

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

ITEM-202: Rancho Bernardo Maintenance Assessment District.

(Rancho Bernardo Community Area. District-5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1175) ADOPTED AS RESOLUTION R-299271

Resolution of Intention to initiate proceedings for a ballot protest procedure for the Rancho Bernardo Maintenance Assessment District and to levy and collect Fiscal Year 2005 Annual Assessment on Rancho Bernardo Maintenance Assessment District.

CITY MANAGER SUPPORTING INFORMATION:

This action will increase the Fiscal Year 2005 assessments for the Rancho Bernardo Maintenance Assessment District (District). The District is located in the Rancho Bernardo Community Planning Area. It was established in July 1983 and was last balloted in 1997. For the last several years the District has been over-spending its income, and is financing the maintenance of its current service level by spending down its reserve. In January 2004, the Rancho Bernardo Maintenance Assessment District Citizens Advisory Committee voted to initiate the balloting of the District property owners to: (1) raise the annual assessment per Equivalent Benefit Unit (EBU) from $7.21 to $15.00 in Fiscal Year 2005, (2) incorporate new areas into the district, and (3) authorize a cost indexing factor of an amount not to exceed the San Diego CPI-U plus 3%. The purpose is to increase income sufficiently to cover the current service level, maintain a minimum 10% operating reserve, and fund small planting projects and their future maintenance through the assessment of property owners. This district would provide maintenance for landscaped medians, hardscaped medians, landscaped rights-of-way, and hardscaped rights-of-way.

	FY 2005	Maximum Authorized
EXPENSES:		
Personnel	$36,993	$36,993
Contract	$251,961	$308,816
Incidentals	$60,491	$74,541
Energy and Utilities	$21,943	$29,094
TOTAL EXPENSES	**$371,388**	**$449,444**
REVENUES:		
Assessments	$364,420	$449,494
City Contributions-Gas Tax	$33,872	$33,872

Interest	$5,000	$5,000
TOTAL REVENUES	**$403,292**	**$488,366**
RESERVES	**$31,904**	**$38,922**

The proposed property owner assessment for Fiscal Year 2005 is $15.00 per EBU. A maximum assessment authorized for the District is $18.50 per EBU. The District contains a total of 14,895 EBUs.

FISCAL IMPACT:

It is proposed that the City will contribute $33,872 from the Gas Tax Fund 302191 for the City's share of expenses incurred for maintenance of street medians comparable to similar areas throughout the City. All other costs are assessed to property owners in the District. The City owns 12 assessable parcels in the district, resulting in a General Fund assessment in Fiscal Year 2005 of $1,933.

Herring/Oppenheim/AWF

FILE LOCATION: STRT – M-400 (34)

COUNCIL ACTION: (Time duration: 2:57 p.m. – 2:57 p.m.)

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

ITEM-203: Special Hearing – FY 2005 Social Service Program Funding.

(See City Manager Report CMR-04-103.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1215) ADOPTED AS RESOLUTION R-299272

Approving the funding recommendations for the Fiscal Year 2005 Social Service Programs, contingent upon certification of funds availability by the City Auditor and Comptroller;

Approving the funding appropriations from the Community Development Block Grant Program, Emergency Shelter Grant, and the Housing Commission for Fiscal Year 2005 Social Service Programs, contingent upon the adoption of the FY 2005 budget and contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the City Manager to negotiate and execute agreements with all programs approved for funding, contingent upon certification of funds availability by the City Auditor and Comptroller.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:12 p.m. – 5:04 p.m.)

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

ITEM-204: Two actions related to Fiscal Year 2004 Year-End Financial Status and Budget Adjustments.

CITY MANAGER'S RECOMMENDATION:

Hold the first public hearing of the ordinance in Subitem A and adopt the resolution in Subitem B:

Subitem-A: (O-2004-136) HEARING HELD

Amending Ordinance No. 0-19201 (New Series), as amended, entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 2003-2004 and Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year" by amending Document No. 00-19201, as amended and adopted therein, by authorizing certain year-end budget adjustments including making additional appropriations and transfers that may be necessary to balance fund carryovers and expenditures/appropriations for Fiscal Year 2005.

NOTE: Today's action is the first public hearing of the Ordinance. See Item 330 on the docket of Tuesday, May 25, 2004, for the second public hearing and the introduction and adoption of the Ordinance.

Subitem-B: (R-2004-1209) ADOPTED AS RESOLUTION R-299273

Adopting Fiscal Year 2004 Year-End Financial Status and Budget Adjustments.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:58 p.m. – 2:58 p.m.)

MOTION BY MADAFFER TO APPROVE THE FIRST PUBLIC HEARING OF THE ORDINANCE IN SUBITEM A AND ADOPT THE RESOLUTION IN SUBITEM B. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-250: 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:

DAY	DATE	DAYS BEFORE ELECTION	EVENT
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 through Monday	6/28/2004 through 7/19/2004	127 to 106	Council adopts propositions for ballot; directs City Attorney to prepare ordinances.
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-S400: National Beach Safety and Safe Boating Weeks.

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2004-1263) ADOPTED AS RESOLUTION R-299274

Proclaiming the week of May 22-28, 2004 to be "National Safe Boating Week" and May 24-31, 2004 to be "National Beach Safety Week" in the City of San Diego in recognition of public safety professionals and water safety awareness in our great City.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:51 p.m. – 2:55 p.m.)

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

* ITEM-S401: Requesting an Expedited Order for the Clean-Up of the Qualcomm Stadium Property and the Mission Valley Aquifer.

(See City Manager Report CMR-04-098 and memorandum from Councilmember Madaffer dated 3/30/2004. Mission Valley Community Area. District-6.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-1242) ADOPTED AS RESOLUTION R-299275

Authorizing the City Council to send a letter to the California Regional Water Quality Control Board, San Diego Region, urging the Board to adopt, by August 2004, a new clean-up and abatement order to Kinder Morgan Energy Partners requiring expedited clean-up of the Qualcomm Stadium property and the Mission Valley aquifer.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 5/12/2004, NR&C convened for discussion only. No action taken.

CITY MANAGER SUPPORTING INFORMATION:

Petroleum products have been discharged to the ground and ground water from the Mission Valley Terminal since 1986. The contamination now extends to the City-owned Qualcomm Stadium and beyond. In 1992, the Regional Water Quality Control Board issued a Clean Up and Abatement Order to Kinder Morgan Energy Partners and other potential responsible parties for this site. Kinder Morgan was ordered to propose an overall plan for remedial activity which was submitted to the Regional Board on February 3, 2004. This plan proposes various clean-up levels and clean-up milestone dates extending out to 2034.

The City of San Diego created a Working Group to evaluate the proposal, time schedules and the impacts to the City's future plans. Currently the City is planning for groundwater storage and extraction as part of a groundwater management program. The contamination must be remediated prior to 2007 in order for this project to meet its proposed time schedules. In addition, the remediation must be completed prior to any future redevelopment of the Qualcomm site.

Based on its evaluation of the proposal, the Working Group submitted a series of detailed reports and a proposed clean-up and abatement order to the Regional Board in advance of a public workshop held by Regional Board staff on May 3, 2004. At the workshop, the Working Group presented its materials and urged the adoption of an expedited clean-up order.

The Regional Board soon will be considering a new order for remediation of the site. This action will allow for a resolution of the City Council authorizing a letter to the RWQCB from the Mayor and Council requesting that the matter of a new order be heard by the Regional Board as soon as possible, but no later than August, 2004, and urging the adoption of a new clean-up and abatement order requiring clean-up on an expedited bases. The City is requesting that the remediation be expedited given that 15 years has transpired since the initial release was identified and the release continues to adversely impact significant public resources.

FISCAL IMPACT:

None with this action.

Mendes/Heap/SMC

FILE LOCATION: MEET (61)

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-S402: Debarment of Southern California Underground Contractors, Inc.

(See City Manager Report CMR-04-104.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1213) ADOPTED AS RESOLUTION R-299276

Reinstating Resolution R-294947 in its entirety, including all exhibits, and adopting the "Findings Regarding the Permanent Debarment of Southern

California Underground Contractors, Inc., its divisions and organizational elements, its Affiliates, Jim Craig Jackson and George Rogers Frost" (SoCal), pursuant to San Diego Municipal Code Section 22.0801, et seq., and based upon all evidence and testimony.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-S403: Excusing Councilmember Zucchet from the Natural Resources and Culture Committee Meeting on May 12, 2004.

COUNCILMEMBER ZUCCHET'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1265) ADOPTED AS RESOLUTION R-299277

Excusing Councilmember Michael Zucchet from attending the regularly scheduled May 12, 2004, Natural Resources and Culture Committee meeting.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

* ITEM-S404: Critical Incident Management Unit Grant from the San Diego Police Foundation.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1205) ADOPTED AS RESOLUTION R-299278

Authorizing the Chief of Police to apply for, accept, manage and expend this grant, including any amendments, extensions, or renewals, for a period of up to five years, provided funding is made available by the San Diego Police Foundation;

Authorizing the Chief of Police to execute all aspects of program operation, including any amendments, extensions, or renewals, and to certify that the City will comply with all applicable statutory or regulatory requirements related to this program;

Declaring that any resources received hereunder shall not be used to supplant expenditures controlled by this body; and that personnel positions, if any, funded under this program are not subject to local hiring freezes.

CITY MANAGER SUPPORTING INFORMATION:

The San Diego Foundation has selected the San Diego Police Department's Critical Incident Management Unit to receive a grant in the amount of $128,763. The Grant will be awarded through the San Diego Police Foundation.

These grant funds will be used to purchase automation equipment, including desktop computer systems, laptop computer systems, associated software, an LCD projector, electronic whiteboard and plotter.

These resources will bring state of the art communication, planning, response, prevention, education, and post-incident analysis to the Critical Incident Management Unit.

FISCAL IMPACT:

There is no requirement for matching funds, and no requirement to continue grant funded activities or expenditures after grant funds are exhausted or terminated. The grant provides funds for prorated costs for the OC3 large volume data line through June 30, 2004. After that,

SDDPC will assume these costs. SDPD will assume other ongoing operation and maintenance costs for the equipment from the regular budget.

Ewell/Lansdowne/DJW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:17 p.m.)

CONSENT 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.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 5:09 p.m. in honor of the memory of:

Craig Castaneda as requested by Council Member Zucchet.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:05 p.m. – 5:09 p.m.)