

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

Table of Contents

CHRONOLOGY OF THE MEETING..... 4

ATTENDANCE DURING THE MEETING..... 4

ITEM-1: ROLL CALL..... 5

ITEM-10: INVOCATION..... 5

ITEM-20: PLEDGE OF ALLEGIANCE.....5

ITEM-30: Approval of Council Minutes..... 5

ITEM-3 1: Lionel Van Deerlin Day.....6

ITEM-3 2: Jimmy Scales Day.....7

ITEM-3 3: Women’s Equality Day.....7

CLOSED SESSION ITEMS..... 8

* ITEM-100: South Pacific Beach Lifeguard Tower and Major Components Transfer of Funds for Repairs to Fire Station No. 5, Hillcrest..... 11

* ITEM-101: Charitable Donations to Fire-Rescue Department..... 13

* ITEM-102: Administration, Management, and Operation of a Second Regional Fire and Rescue Helicopter..... 15

* ITEM-103-: Five-Year Parking Management Agreement with Ace Parking Management, Inc., for the Sixth & K Parkade Facility in the East Village..... 17

* ITEM-104: First Amendment to Easement Deed No. RR-283621 - United States of America...
..... 18

* ITEM-105: Wave House Belmont Park Encumbrance of the Leasehold..... 19

Minutes for Monday, August 2, 2004
Table of Contents (Continued)

* ITEM-106: Skyline Fire Station No. 32 Land Acquisition.....20

* ITEM-107: Accepting a Parcel of Land within the San Vicente Reservoir Watershed..... 21

* ITEM-108: Two actions related to Building Restricted Easement Vacations over all of Lot 246 of Black Mountain Ranch Unit No. 1 Map No. 14064 and a Portion of Parcel 2 of Map No. 19209..... 22

* ITEM-109: Establishing a Two-Hour Unmetered Parking Zone on 25th Street..... 23

* ITEM-110: Establishing a Two-Hour Unmetered Parking Zone on Convoy Street..... 25

* ITEM-111: Establishing a Two-Hour Unmetered Time Limit Parking Zone on Home Avenue..... 26

* ITEM-112: Appointment and Reappointments to the Small Business Advisory Board..... 27

ITEM-150: Consideration and Possible Action to Introduce and Adopt an Ordinance Repealing the City’s Election Campaign Control Ordinance and Replacing it with New Provisions based on Recommendations Made by the Ethics Commission and Modifications Approved by the Rules Committee..... 28

ITEM-200: Consideration and Possible Action to Adopt a Resolution Directing the City Attorney to Prepare an Impartial Analysis and Directing the City Manager to Prepare a Fiscal Analysis, Relating to the Ballot Measure Authorizing the Ethics Commission to Retain Independent Counsel.....30

ITEM-250: SUBMISSION OF BALLOT PROPOSALS.....31

ITEM-251: ARGUMENTS SUPPORTING OR OPPOSING PROPOSITIONS..... 32

ITEM-252: **Notice** of Pending Final Map Approval – 4086 Alabama Street Condominiums.33

ITEM-253: **Notice** of Pending Final Map Approval – 4357 Oregon Street..... 34

ITEM-254: Notice of Completion and Acceptance of Subdivision Improvement Agreement.34

ITEM-S400: Torrey Pines High School Boys Lacrosse Day.....35

ITEM-S401: In the Matter of Information Report Update on FY 2004 – 2005 State Budget.... 35

ITEM-S402: Two actions related to Rancho Bernardo Maintenance Assessment District..... 36

ITEM-S403: Three actions related to the Torrey Highlands Maintenance Assessment District....
..... 38

ITEM-S404: Two actions related to Peñasquitos East Maintenance Assessment District..... 41

ITEM-S405: Eight actions related to Submitting to the Voters Various Ballot Propositions
Relating to Recommendations to Raise Transient Occupancy Tax (TOT) from
10.5% to 13%.....43

NON-DOCKET ITEMS..... 46

ADJOURNMENT..... 46

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:18 p.m. Mayor Murphy recessed the meeting at 3:22 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:34 p.m. with Council Member Zucchet not present. Mayor Murphy recessed the meeting at 5:00 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 5:11 p.m. with Council Member Zucchet not present. Mayor Murphy adjourned the meeting at 5:47 p.m. into Closed Session in the Twelfth Floor Committee Room to discuss existing and pending litigation matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-Excused (By R-299602 due to illness)
- (3) Deputy Mayor 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-not present
- (3) Deputy Mayor 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 Pastor Wayne Riggs of
Plymouth Congregational Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Deputy Mayor Atkins.

FILE LOCATION: MINUTES

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS:

APPROVED

Approval of Council Minutes for the meetings of:

07/05/2004
07/06/2004
07/12/2004
07/13/2004

FILE LOCATION: MINUTES

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

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

ITEM-31: Lionel Van Deerlin Day.

DEPUTY MAYOR ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-33) ADOPTED AS RESOLUTION R-299513

Commending Lionel Van Deerlin for his decades of community service to the San Diego region as an elected official and journalist, and congratulating him on his recently celebrated 90th birthday.

Proclaiming August 2, 2004 to be "Lionel Van Deerlin Day" in the City of San Diego.

FILE LOCATION: AGENDA

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

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

ITEM-32: Jimmy Scales Day.

COUNCILMEMBER LEWIS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-40) ADOPTED AS RESOLUTION R-299515

Commending Jimmy Scales for his service and dedication to the City of San Diego.

Proclaiming August 2, 2004 to be "Jimmy Scales Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:43 p.m. – 2:43 p.m.)

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

ITEM-33: Women's Equality Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-124) ADOPTED AS RESOLUTION R-299516

Recognizing the outstanding contributions that generations of American women have added their vision and voices to the national discourse;

Proclaiming August 2, 2004 to be "Women's Equality Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:49 p.m. – 3:06 p.m.)

MOTION BY FRYE TO ADOPT. Second by Atkins. Passed by the following vote:
Peters-yea, Zucchet-not present, 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):**

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 3, 2004

**CS-1 *Friends of San Diego v. City of San Diego*
San Diego Superior Court No. GIC 800565**

DCA assigned: FitzGerald

This is a petition for Writ of Mandate in which the plaintiffs challenge the City Council's certification of a Final Environmental Impact Report [FEIR] for the City of Villages Strategic Framework Element, adoption of a Five-Year Action Plan, and related actions taken on October 22, 2002 [Project]. The lawsuits seeks a writ vacating certification of the FEIR and enjoining the City from taking any steps to further the Project until additional environmental review is conducted. The City Attorney requests that the Mayor and City Council consider a possible settlement of this case in closed session.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:13 p.m. – 3:13 p.m.)

**CS-2 *De Anza Cove Homeowners Association, Inc. v. City of San Diego*
San Diego Superior Court Case No. GIC 821191**

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 3, 2004

DCA assigned: Gleeson

This matter concerns the litigation filed by the De Anza Cove Homeowners Association 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 other matters affecting the litigation.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:13 p.m. – 3:13 p.m.)

**CS-3 *Alvord Unified School District; Bobbie Jo Ayala v. City of San Diego*
San Diego Superior Court No. GIC797243**

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 3, 2004

DCA assigned: Sherman

This case arises out of a motor vehicle accident in which a trash dumpster fell off a City truck being driven by a City employee on I-5. The dumpster hit a school bus driven by Bobbie Jo Ayala, who contends she was injured. The City Attorney requests that the Mayor and City Council consider a possible settlement of this case in closed session.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:13 p.m. – 3:13 p.m.)

**CS-4 *Jeremy Aue v. City of San Diego*
San Diego Superior Court No. GIC816432**

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 3, 2004

DCA assigned: Lasman

This case arises out of an incident in which a twenty-nine year old man was injured when he stepped into an uncovered sewer lateral clean-out box in a sidewalk in downtown San Diego. The City Attorney requests that the Mayor and City Council consider a possible settlement of this claim in closed session.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:13 p.m. – 3:13 p.m.)

**CS-5 *Department of Industrial Relations' Determination
Public Works Case No.2003-007***

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 3, 2004

HDCA assigned: Katz

This is updating the matter of an appeal of the Department of Industrial Relations' Determination concerning the Ballpark and Infrastructure Projects as well as a subsequent audit on the Infrastructure Projects.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:13 p.m. – 3:13 p.m.)

**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 OF TUESDAY, AUGUST 3, 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.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:13 p.m. – 3:13 p.m.)

- * ITEM-100: South Pacific Beach Lifeguard Tower and Major Components Transfer of Funds for Repairs to Fire Station No. 5, Hillcrest.

(See City Manager Report CMR-04-063.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-80) ADOPTED AS RESOLUTION R-299517

Authorizing the City Auditor and Comptroller to transfer \$130,000, from Fund 92110, Fire and Life Safety Construction Fund, CIP-33-098.0, Major Components to CIP-29-473.0, South Pacific Beach Lifeguard Tower;

Authorizing the City Auditor and Comptroller to return \$130,000 from Fund 102232, TOT Coastal Infrastructure Fund, to Fund 10220, TOT;

Authorizing the City Auditor and Comptroller to reallocate \$130,000, from Fund 10220, TOT to Fund 30245, Capital Outlay Sales Tax to be used to fund repairs at Fire Station No. 5, Hillcrest;

Authorizing the City Auditor and Comptroller to appropriate \$130,000 of Capital Outlay Sales Tax, Fund 30245, into CIP 33-098.0, Major Components, for the purpose of funding repairs to Fire Station No. 5, Hillcrest;

Declaring that the City Manager is to authorize the \$130,000 global reduction to the Fire and Life Safety CIP projects in the Major Components Project, in order to fund the repairs to Fire Station No. 5, Hillcrest.

CITY MANAGER SUPPORTING INFORMATION:

The Major Components Project includes various capital improvements at numerous existing fire stations throughout the City and is bond funded. In accordance with the Manager's Report No. 04-063, dated March 24, 2004, \$130,000 is included in the Major Components Project to fund some badly needed repairs at Fire Station 5 (Hillcrest). These repairs will be temporary until sufficient funds are available from bond funds to demolish and rebuild Fire Station 5. Temporary improvements are not capital in nature and do not qualify for bond funds.

In order to complete these improvements, a transfer of \$130,000 from TOT funds is required from the South Pacific Beach Lifeguard Tower, which is funded by both bond funds and TOT funds (Fund 102232, TOT Fund). These TOT funds will be reimbursed to the South Pacific Beach Lifeguard Tower project from the Major Components bond funds as part of this action. This action will not impact or defer any projects in the overall Fire and Lifeguard Facility Improvements Project (Project), other than those previously approved by Council to be deferred as part of the Manager's Report No. 04-063. However, since the overall Project must be capitalized and temporary improvements cannot be capitalized, a non-CIP accounting sublet must be created from the Major Components Project which will reduce the overall Project by \$130,000, from \$62,595,558 to \$62,465,558.

FISCAL IMPACT:

There is no Fiscal Impact. This action will only swap funds between projects from different funding sources. No additional expenditure authorization is required as part of this action.

Mendes/Belock/AO

Aud. Cert. 2500026.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:34 p.m.)

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

* ITEM-101: Charitable Donations to Fire-Rescue Department.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-116) ADOPTED AS RESOLUTION R-299518

Authorizing the City Manager to accept a donation of 7,400 shares of publicly-traded stock from Jack and Judith White on the condition that the proceeds from the donation be used to purchase 12-lead electrocardiogram monitoring units;

Authorizing the City Auditor and Comptroller to sell the donated stock and transfer the proceeds of the sale, including interest/dividend accruals if any, from the City of San Diego's Donations Fund No. 673-90534-18-603 to the City of San Diego's Fire Equipment Donations Fund No. 10365;

Authorizing the City Auditor and Comptroller to appropriate and expend the monies in Fund 10365, Revenue Account 78901 for the purpose of purchasing 12-lead electrocardiogram monitoring units and appropriate training for the use of such units, contingent upon the City Auditor and Comptroller's issuance of an Auditor's Certificate for \$536,290.40 upon receipt of donated funds;

Authorizing the City Manager to accept a donation of \$32,812.32 from the New Car Dealers Association on the condition that the money be used to purchase a new vehicle for the San Diego Fire-Rescue Department's Emergency Response Team (CERT);

Authorizing the City Auditor and Comptroller to appropriate and expend the monies in Fund 10365, Revenue Account 78901 for the purpose of purchasing a new vehicle for the San Diego Fire-Rescue Department CERT program;

Authorizing the City Manager to accept a donation of \$279,431.52 from the San Diego Chargers on the condition that the money be used to purchase wildland web gear for the San Diego Fire-Rescue Department;

Declaring the City of San Diego and the San Diego Fire-Rescue Department, expresses sincere gratitude for the very generous donations made by Jack and Judith White, the New Car Dealers Association, and the San Diego Chargers.

CITY MANAGER SUPPORTING INFORMATION:

Over the past few months, the Fire-Rescue Department has received a number of charitable donations to be used for the purchase of new equipment, vehicles and supplies to support fire and emergency services. The following donations have been received:

1. **Judith and Jack White** - Mr. & Mrs. White charitably donated 7,400 shares of publicly traded stock to the City in order to enable the Fire-Rescue Department to acquire advanced life saving equipment. Mr. and Mrs. White made the donation on the condition that the Department purchase 12-lead electrocardiogram monitoring units which are state-of-the-art technology. These units will provide Fire-Rescue paramedics with the same EKG assessment tool that is used by hospital staff, as well as vital information about appropriate hospital destination. The donation will allow for the purchase of 120 EKGs.

At the request of the donor, the 7,400 share of publicly traded stock were transferred to the City of San Diego's Donations Fund maintained at Solomon Smith Barney, Inc. located at 4350 La Jolla Village Drive, San Diego. The preference from the donors was to sell the stock immediately upon receipt. As a result of the immediate sale, the City realized a net gain of \$25,000 based upon a three-year high for the stock.

2. **New Car Dealers Association** - The Association donated \$32,812.32 to the City to fund the acquisition of a new vehicle to be used by the Fire-Rescue Department's Community Emergency Response Team (CERT). The aim of the CERT program is to assist local communities to prepare for effective response to significant emergency incidents. The donated vehicle will be used to transport staff and equipment to and from training sites. The Association selected Bob Baker Chevrolet as the dealership to provide the new vehicle. Therefore, the donation was contingent upon the Fire-Rescue Department acquiring the vehicle from Bob Baker Chevrolet. The vehicle will be maintained by the Fire-Rescue Repair Facility.

3. **San Diego Chargers** - On March 15, 2004, the Chargers donated \$279,431.52 to the Fire-Rescue Department for the purchase of wildland web gear. Fire-Rescue was selected as the recipient of this donation through the Charger's San Diego Fire Relief Fund (Relief Fund) at the San Diego Foundation. The San Diego Foundation paid the vendors of the wildland gear directly from the Relief Fund. The donation allowed for the purchase of 497 fire tent shelters, which cost \$154,939.75, from L.N. Curtis & Sons; and 35 Viper Web Systems with Backpack, 923 Viper Web Systems without Backpack, and 275 Radio Packs provided KMP Fire Products, which cost \$124,491.77.

Wildland web gear is all risk equipment which allows firefighters to operate effectively while responding to a wide range of emergency situations. This web system can be worn by the fire personnel during vegetation fires, urban search and rescue (structural collapse), and other long-term emergencies operations.

FISCAL IMPACT:

The combined total of the three donations to the Fire-Rescue Department is \$848,534.28. The cost of purchasing the 12-lead EKGs is \$500,391, based on the quote from the manufacturer. The remaining \$35,899.44 will be used for training and administration, resulting in no additional fiscal impact to the City. The cost of purchasing the CERT vehicle from Bob Baker Chevrolet is \$32,812.32. Fire-Rescue will absorb the cost of maintaining this vehicle in their existing maintenance budget. The cost of purchasing the wildland web gear is \$279,431.52. There is no additional fiscal impact to the City by accepting this donation.

Herring/Jarman/MB

Aud. Cert. 2500053.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:34 p.m.)

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

* ITEM-102: Administration, Management, and Operation of a Second Regional Fire and Rescue Helicopter.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-82) ADOPTED AS RESOLUTION R-299519

Authorizing the City Manager to negotiate and execute a Memorandum of Understanding (MOU) with the County of San Diego for the administration, management, and operation of a County-funded contract helicopter (MOU), along the lines of the draft MOU, with monthly reimbursement from the County to the City for the full costs associated therewith, anticipated to be approximately \$268,000 per month, up to a maximum amount of \$1,609,812;

Authorizing the City Manager to accept funds from the County of San Diego, to be deposited in Fund No. 10264, and to expend funds not to exceed \$1,609,812 from Fund No. 10264, solely and exclusively for the administration, management,

and operation of a County-funded contract helicopter to be procured under the current City contract with Kachina Aviation.

CITY MANAGER SUPPORTING INFORMATION:

On May 11, 2004, the Mayor and City Council approved renewing the contract with Kachina-Helijet Aviation for a multi-mission helicopter with support. The contract is for a minimum of 180 days, beginning on June 25, 2004, with an extension of service beyond the 180 days if necessary.

On February 10, 2004, the County Board of Supervisors allocated \$3.5 million for the purchase of a fire and rescue helicopter and an additional \$2.1 million for the operation of this helicopter. The procurement, refurbishment, and delivery date of the County procured helicopter is unknown. Due to the unknown delivery date of the County procured helicopter, the County Board of Supervisors on May 18, 2004, directed its Chief Administrative Officer to enter into an agreement with the City of San Diego to contract for a second helicopter through the City's existing contractual arrangement with Kachina-Helijet Aviation. The County Board of Supervisors authorized the expenditure not to exceed \$1,609,812 to fund the second helicopter for 180 days to be managed and operated by San Diego Fire-Rescue Department under the auspices of the San Diego Regional Fire and Rescue Helicopter Program.

If approved, the City of San Diego will accept and expend the funds from the County of San Diego to provide a second fire and rescue helicopter capable of meeting the requirement of City RFP No. 6004-03-Q (Kachina-Helijet). This second helicopter (Copter 2) would be operated under the existing San Diego Regional Fire and Rescue Helicopter Program. The contract period for the San Diego County funded contract helicopter will be for up to 180 days beginning on July 1, 2004.

FISCAL IMPACT:

No fiscal impact to the City. The County of San Diego will make available \$1,609,812 to the City of San Diego for the administration, management, and operation of the County funded contract helicopter. The City of San Diego will invoice the County of San Diego monthly in the approximate amount of \$268,302.

Ewell/Ghio/MM

Aud. Cert. 2500051.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:34 p.m.)

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

- * ITEM-103-: Five-Year Parking Management Agreement with Ace Parking Management, Inc., for the Sixth & K Parkade Facility in the East Village.

(See Centre City Development Corporation Report CCDC-04-17. East Village Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment Project. District-2.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-117) ADOPTED AS RESOLUTION R-299520

Authorizing the City Manager to execute, a Five-Year Parking Management Agreement, with Ace Parking Management, Inc., to provide parking management services for the 6th & K Parkade Facility in the East Village Redevelopment District of the expansion Sub Area of the Centre City Redevelopment Project Area.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:34 p.m.)

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

* ITEM-104: First Amendment to Easement Deed No. RR-283621 - United States of America.

(University Community Area. District-5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-70) ADOPTED AS RESOLUTION R-299521

Authorizing the City Manager to execute the First Amendment to Easement Deed No. RR-283621, under the terms and conditions set forth in that agreement, to allow the City to lease a portion of the Plant for a telecommunication facility under the terms of a proposed lease with Cingular Wireless.

CITY MANAGER SUPPORTING INFORMATION:

On March 28, 1994, the City Council adopted Resolution R-283621, which conveyed to the United States of America ("Government") an easement for a safety and compatible use zone ("Easement") in connection with operation of the Miramar Naval Air Station, now known as Marine Corps Air Station, Miramar. By conveying the Easement, the City agreed that it will not use, develop or construct any improvements on the City-owned property, except for the construction and operation of the North City Water Reclamation Plant ("Plant"). The property consists of portions of Pueblo Lots 1304, 1305, 1306, 1318 and 1319 and is adjacent to Marine Corps Air Station, Miramar. The Plant was constructed by the City in 1997.

The City is currently reviewing a lease proposal from Cingular Wireless ("Cingular") to install and maintain a communication facility at the Plant. For consideration of One Dollar (\$1.00), the Government has agreed to amend the Easement to allow the City to lease a portion of the Plant for a telecommunication facility. Under the terms of the proposed lease, the City would receive a one-time site access fee of \$40,000 and a starting minimum annual rent of \$28,200. The revenue would be deposited into the Metro Sewer Fund. Approval of the amendment to the Easement is needed prior to the commencement of lease negotiations.

FISCAL IMPACT:

None with this action. If the lease with Cingular Wireless is executed it is anticipated that a minimum rent of \$28,200 per year plus a \$40,000 one time site access fee will be deposited into the Metro Sewer Fund 41508.

Ewell/Griffith/VEB

FILE LOCATION: DEED F-9797

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:34 p.m.)

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

* ITEM-105: Wave House Belmont Park Encumbrance of the Leasehold.

(See City Manager Report CMR-04-166. Mission Beach Community Area. District-2.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-123) ADOPTED AS RESOLUTION R-299522

Authorizing the City Manager to approve the encumbrance of the leasehold with Wave House Belmont Park, LLC, on the terms as substantially set forth in the City Manager’s Report No. 04-166 and the attachments thereto.

FILE LOCATION: LEASE-Wave House Belmont Park, LLC

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:34 p.m.)

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

* ITEM-106: Skyline Fire Station No. 32 Land Acquisition.

(Skyline Community Area. District-4.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-71) ADOPTED AS RESOLUTION R-299523

Authorizing the City Manager to expend an amount not to exceed \$640,350 from CIP-33-089.0, Fire Station No. 32, Skyline (Fund No. 92110), for the acquisition of property rights to approximately .62 acres of land located at 7180 Skyline Drive, legally described as Lot 113 of Skyline Hills Unit No. 1, Map No. 4052, filed in the Office of the County Recorder of San Diego County, January 8, 1959, and for labor, appraisal, relocation, title, escrow, and miscellaneous costs of acquisition.

CITY MANAGER SUPPORTING INFORMATION:

Fire Station No. 32 is a 39-year old station currently located at 484 Briarwood Road, and is inadequate to accommodate the necessary equipment for the district. In order to better serve the community and decrease response times in this area, it has been proposed to rebuild and relocate this station to an area north of the present site.

This action will provide funds for the acquisition of property rights from a willing seller of a .62 acre site at 7180 Skyline Drive. This is the proposed location of the future Fire Station No. 32. The property to be acquired is improved with a former gas station which has not been operating as such for approximately 18 years. The underground tanks have been removed, and testing indicate a low level of soil contamination, which will not require any remediation. A complete environmental analysis for the construction of the new fire station, in compliance with CEQA, is expected to be done within the next two years prior to construction.

The new station will be approximately 6,700 square feet and will accommodate (6) personnel and three (3) apparatus bays, and will provide the necessary room for improved vehicle response coverage to handle fire and medical emergencies. Construction is anticipated in summer of 2006, pending approval of future bond funds. The new fire station is located directly across the street from the police station at 7222 Skyline Drive further providing necessary support to the community.

FISCAL IMPACT:

\$640,350 is budgeted in CIP 33-089.0, Fire Station 32, Skyline, in Fund 92110, for the purpose of land acquisition and related costs for Fire Station No. 32.

Herring/Griffith/LHG

Aud. Cert. 2500042.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:34 p.m.)

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

* ITEM-107: Accepting a Parcel of Land within the San Vicente Reservoir Watershed.

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-62) ADOPTED AS RESOLUTION R-299524

Authorizing the City Manager to accept a 46 acre parcel of land within the San Vicente Reservoir watershed, identified as the southwest quarter of the northeast quarter of Section 20, Township 14 South, Range 1, East San Bernardino Meridian in the County of San Diego, State of California, in fulfillment of the offsite mitigation required by the San Diego County Planning Department of a third party;

Stating for the record that acceptance of the above-described property is not a “project” and is exempt from the California Environmental Quality Act pursuant to State Guidelines, Section 15060(c)(3).

CITY MANAGER SUPPORTING INFORMATION:

There were two minor subdivisions approved in the Ramona area, and both contained biological resources that required offsite mitigation pursuant to the California Environmental Quality Act and/or the County of San Diego Biological Mitigation Ordinance.

The deeding of this 46-acre parcel to the City of San Diego, as part of the Water Districts watershed within the San Vicente Reservoir area, will satisfy the County’s offsite requirements

for the subdivision projects. This acreage will fall within the overall maintenance of the San Vicente watershed, which will now be increased to 3,394 acres.

FISCAL IMPACT:

None.

Herring/Griffith/BLM

FILE LOCATION: DEED F-9796

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:34 p.m.)

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

* ITEM-108: Two actions related to Building Restricted Easement Vacations over all of Lot 246 of Black Mountain Ranch Unit No. 1 Map No. 14064 and a Portion of Parcel 2 of Map No. 19209.

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

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-105) ADOPTED AS RESOLUTION R-299525

Vacating the building restricted easement located over all of Lot 246 of Black Mountain Ranch Unit No. 1 Map No. 14064, to unencumber his property and facilitate development of the site, under the procedure for the summary vacation of easement, Section 8330 et. seq. of the California Streets and Highways Code.

Subitem-B: (R-2005-106) ADOPTED AS RESOLUTION R-299526

Vacating the building restricted easement located over a portion of Parcel 2 of Parcel Map No. 19209, to unencumber his property and facilitate development of the site, under the procedure for the summary vacation of easement, Section 8330 et. seq. of the California Streets and Highways Code.

CITY MANAGER SUPPORTING INFORMATION:

City Council action is requested to vacate building restricted easements over all of Lot 246 of Black Mountain Ranch Unit No. 1 Map No. 14064 as shown on Engineering Drawing No. 20100-B and over a portion of Parcel 2 of Parcel Map No. 19209 as shown on Engineering Drawing No. 20101-B. These properties are located southeasterly of El Camino Real and San Dieguito Road in the Black Mountain Ranch Community Planning Area in Council District 1.

At the request of the developer, these building restricted easements were originally placed over non-building site lots that were to be owned and maintained by the Property Owner's Association. The purpose of the building restricted easements was to avoid possible construction on the lots by the Board of Directors of the POA. The developer, due to market conditions, has redesigned the project, and the building restricted easements are no longer wanted in their present locations. Substantial Conformance Reviews to the Tentative Maps approved removing the building restricted easements and converting the lots to buildable lots.

Staff recommends approval of the vacations.

FISCAL IMPACT:

None.

Loveland/Broughton/GRB

FILE LOCATION: DEED F-9795

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:34 p.m.)

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

* ITEM-109: Establishing a Two-Hour Unmetered Parking Zone on 25th Street.

(Greater Golden Hill Community Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-65) CONTINUED TO MONDAY, AUGUST 9, 2004

Establishing a two-hour unmetered time limit parking zone, effective between the hours of 8:00 a.m. and 6:00 p.m., Monday through Sunday, on the south side of Home Avenue between I-805 ramp and Fairmount Avenue, San Diego, California, pursuant to authority conferred by and in accordance with the provisions of Section 86.04 of the San Diego Municipal Code;

Waiving the provisions of Council Policy 200-04 to establish time limit parking;

Authorizing the installation of the necessary signs and markings to be made on said streets; the regulations hereinabove imposed shall become effective upon the installation of such signs.

CITY MANAGER SUPPORTING INFORMATION:

This action will authorize the City Manager to install a two-hour unmetered time limit parking on the east side of 25th Street between Broadway and C Street. The two-hour time limit zone will be effective from 8 a.m. to 6 p.m., Monday through Saturday, with Sundays and certain holidays excepted. This action is in accordance with Municipal Code Section 86.04 and Council Policy 200-04, Installation or Removal of Time Limit Parking Zones and Parking Meter Zones.

25th Street is a commercial street. The businesses expressed concern with the parking for long durations impacting their businesses and requested time limit parking. They submitted a petition signed by 82% of the fronting businesses to initiate a parking study by the City. The parking duration study indicated that time limit parking is recommended.

In addition, the Golden Hill Planning Committee supports this action.

FISCAL IMPACT:

\$800. Funds are available in the Streets Division for this purpose.

Mendes/Boekamp/VW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:34 p.m.)

CONSENT MOTION BY INZUNZA TO CONTINUE TO MONDAY, AUGUST 9, 2004 FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-110: Establishing a Two-Hour Unmetered Parking Zone on Convoy Street.

(Kearny Mesa Community Area. District-6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-66) ADOPTED AS RESOLUTION R-299527

Establishing a two-hour unmetered time limit parking zone, effective between the hours of 8:00 a.m. and 6:00 p.m., Sundays and certain holidays excepted, on the east side of Convoy Street between Engineer Road and Vickers Street, San Diego, California, pursuant to authority conferred by and in accordance with the provisions of Section 86.04 of the San Diego Municipal Code;

Authorizing the installation of the necessary signs and markings to be made on said streets; the regulations hereinabove imposed shall become effective upon the installation of such signs.

CITY MANAGER SUPPORTING INFORMATION:

This action will authorize the City Manager to establish two-hour time limit unmetered parking on the east side of Convoy Street between Engineer Road and Vickers Street. The two-hour time limit zone will be effective from 8:00 a.m. to 6:00 p.m., Monday through Saturday, with Sundays, and certain holidays excepted. This action is in accordance with Municipal Code Section 86.04 and Council Policy 200-04, Installation or Removal of Time Limit Parking Zones and Parking Meter Zones.

Convoy Street is a commercial street. The business owner expressed concern with long term parking on the street and requested time limit parking. They submitted a petition representing 100% of the businesses requesting a parking study by the City. Staff has conducted a parking duration study, which showed a high level of occupancy and a low turnover of parking on this street. Therefore, time limit parking is recommended. In addition, the Kearny Mesa Community Planning Group is in support of this proposal.

FISCAL IMPACT:

\$600. Funds are available in the Streets Division for this purpose.

Mendes/Boekamp/VW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:34 p.m.)

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

* ITEM-111: Establishing a Two-Hour Unmetered Time Limit Parking Zone on Home Avenue.

(City Heights Community Area. District-4.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-108) ADOPTED AS RESOLUTION R-299528

Establishing a two-hour unmetered time limit parking zone, effective between the hours of 8:00 a.m. and 6:00 p.m., Monday through Sunday, on the south side of Home Avenue between I-805 ramp and Fairmount Avenue, San Diego, California, pursuant to authority conferred by and in accordance with the provisions of Section 86.04 of the San Diego Municipal Code;

Waiving the provisions of Council Policy 200-04 to establish time limit parking;

Authorizing the installation of the necessary signs and markings to be made on said streets; the regulations hereinabove imposed shall become effective upon the installation of such signs.

CITY MANAGER SUPPORTING INFORMATION:

This action will authorize the City Manager to install two-hour unmetered time limit parking on the south side of Home Avenue between I-805 ramp and Fairmount Avenue. The two-hour time limit zone will be effective from 8:00 a.m. to 6:00 p.m., Monday through Sunday. This action is in accordance with Municipal Code Section 86.04 and Council Policy 200-04, Installation or Removal of Time Limit Parking Zones and Parking Meter Zone.

Home Avenue is a commercial street. The majority of available parking on the south side of Home Avenue is being occupied by private vehicles for sale leaving few spaces for short term parking. Furthermore, the City Heights Area Planning Committee supports this action.

FISCAL IMPACT:

\$2,000. Funds are available in the Street Division for this purpose.

Mendes/Boekamp/DVW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:34 p.m.)

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

* ITEM-112: Appointment and Reappointments to the Small Business Advisory Board.

(See memorandum from Mayor Murphy dated 7/20/2004, with resumes attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-122) ADOPTED AS RESOLUTION R-299529

Council confirmation of the following appointment and reappointments by the Mayor of the City of San Diego, to serve as members of the Small Business Advisory Board, for terms expiring as indicated, and in categories as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
George P. Chandler, Jr. (Reappointment)	Small Business Administration Director	July 1, 2006
Kurt A. Chilcott (Reappointment)	Member at Large Financial	July 1, 2006

Warren J. Simon (Reappointment)	Business Improvement District Council Designated Representative	July 1, 2006
Richard G. Sims (Reappointment)	Member at Large Small Business Owner	July 1, 2006
Spencer C. Skeen (Reappointment)	Legal	July 1, 2006
Auday Arabo (Replacing Badi Badiozamani, whose term expired)	Small Business Owner	July 1, 2006

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:34 p.m.)

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

ITEM-150: Consideration and Possible Action to Introduce and Adopt an Ordinance Repealing the City's Election Campaign Control Ordinance and Replacing it with New Provisions based on Recommendations Made by the Ethics Commission and Modifications Approved by the Rules Committee.

TODAY'S ACTIONS ARE:

Subitem A: (O-2005-21) INTRODUCED, TO BE ADOPTED
TUESDAY, SEPTEMBER 7, 2004, WITH DIRECTION

Introduction of an Ordinance repealing Chapter 2, Article 7, Division 29 of the San Diego Municipal Code regarding the City's Election Campaign Control Ordinance, and replacing the repealed division with a new Division 29, based on changes to the City's Election Campaign Control Ordinance proposed by the City of San Diego Ethics Commission and modified by the Rules Committee. Such changes would take effect on January 1, 2005, if approved by the full City Council.

Subitem B: (O-2005-22) INTRODUCED, TO BE ADOPTED
TUESDAY, SEPTEMBER 7, 2004, WITH DIRECTION

Introduction of an Ordinance amending Chapter 2, Article 7, Division 29 of the San Diego Municipal Code with regard to three of the modifications to the Election Campaign Control Ordinance proposed in Subitem A, and which, if approved by Council would take effect on the thirtieth day after its passage.

- (1) Amend San Diego Municipal Code Section 27.2947 to allow personal trust account checks to be lawfully accepted in City of San Diego candidate elections.
- (2) Enact San Diego Municipal Code Section 27.2955 to require that candidates and committees sending mass mailings identify themselves as the entities paying for such mailings; and.
- (3) Enact San Diego Municipal Code Section 27.2956 to require that candidates and committees engaging in mass telephone communications identify themselves as the entities paying for such communications.

**RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S
RECOMMENDATION:**

On July 21, 2004, RULES voted 3-0 to support the draft proposal, with modifications approved by RULES, and to forward this item to the full Council. (Councilmembers Peters, Maienschein, and the Mayor voted yea.)

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 4:27 p.m. – 5:40 p.m.)

MOTION BY PETERS TO INTRODUCE THE ORDINANCES AND TO ACCEPT COUNCIL MEMBER FRYE'S RECOMMENDATION THAT THIS ITEM BE RETURNED TO THE ETHICS COMMISSION TO DEVELOP RECOMMENDATIONS ON LANGUAGE WHICH WOULD PROHIBIT OR PLACE ADDITIONAL RESTRICTIONS ON HOW SURPLUS CAMPAIGN FUNDS ARE SPENT BY CANDIDATES AND HOW CANDIDATES TRANSFER CAMPAIGN FUNDS. BASED ON THEIR LEGAL RESEARCH AND RESEARCH OF OTHER JURISDICTIONS, REQUEST THAT A RECOMMENDATION BY THE ETHICS COMMISSION BE BROUGHT BACK BEFORE THE CITY COUNCIL WITHIN THE

CALENDAR YEAR SO THAT A POLICY DECISION CAN BE MADE. PREFER THAT SURPLUS FUNDS BE RETURNED TO THE DONORS AND TRANSFERS NOT BE ALLOWED.

COUNCIL MEMBER PETERS SUGGESTED THAT A CANDIDATE MAY NOT TRANSFER FUNDS TO ANOTHER CANDIDATE OR ANOTHER OFFICE OR ANOTHER PARTY WITHOUT THE DONOR'S PERMISSION.

ACCEPT COUNCIL MEMBER MAIENSCHIN'S REQUEST THAT THE ETHICS COMMISSION PROVIDE A RECOMMENDATION REGARDING THE REQUIREMENT THAT CANDIDATES REFUND CAMPAIGN CONTRIBUTIONS UPON THE WRITTEN OR ORAL REQUEST OF DONORS.

Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea (Nay on contribution limits; and nay on the \$100,000 loan limit), Lewis-yea, Maienschein-yea, Frye-yea (Nay on contribution limits), Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-200: Consideration and Possible Action to Adopt a Resolution Directing the City Attorney to Prepare an Impartial Analysis and Directing the City Manager to Prepare a Fiscal Analysis, Relating to the Ballot Measure Authorizing the Ethics Commission to Retain Independent Counsel.

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2005-130) FILED

Adoption of a resolution directing the City Attorney to prepare an impartial analysis of a proposition already approved by the City Council for placement on the November 2, 2004, ballot, relating to amending City Charter Sections 40 and 41(d) to authorize the Ethics Commission to retain legal counsel independent of the City Attorney.

Subitem-B: (R-2005-131) ADOPTED AS RESOLUTION R-299531

Adoption of a resolution directing the City Manager to prepare a fiscal analysis of a proposition already approved by the City Council for placement on the November 2, 2004, ballot, relating to amending City Charter Sections 40 and

41(d) to authorize the Ethics Commission to retain legal counsel independent of the City Attorney.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:16 p.m. – 3:21 p.m.)

CONSENT MOTION BY PETERS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-not present, 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:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	5/28/2004	158	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee.
Wednesday	6/16/2004	139	Rules Committee review of ballot proposals.
Monday	6/21/2004	134	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee.
Monday	6/28/2004	127	Council adopts propositions for ballot; directs
Monday	through 7/19/2004	to 106	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-251: ARGUMENTS SUPPORTING OR OPPOSING PROPOSITIONS

For propositions approved by the Council for submittal to the qualified voters of the City of San Diego at the Municipal General Election to be held on Tuesday, November 2, 2004, the City Clerk has fixed 5:00 p.m. on Thursday, August 19, 2004, as a reasonable date prior to such election after which no arguments for or against City Propositions may be submitted to the Clerk.

Any argument for or against any City proposition shall not exceed 300 words in length and may be filed by the Council, or any member or members of the Council authorized by the Council, or the bona fide sponsors or proponents of the measure, or any bona fide association of citizens or individual voter, or any combination of voters and associations.

All arguments must be accompanied by a statement signed by each author that the argument is true and correct to the best of his/her knowledge and belief. (Forms for this statement are available in the Office of the City Clerk.)

An argument shall not be accepted unless accompanied by the name or names of the person or persons submitting it, or if submitted on behalf of an organization, the name of the organization and the name of at least one of its principal officers. No more than five signatures shall appear with any argument submitted. At least one of the individuals signing the argument must be a registered voter in the City of San Diego. In case any argument is signed by more than five persons, the signatures of the first five shall be printed.

Arguments may be changed or withdrawn by their proponents until and including the date fixed by the City Clerk.

Arguments shall be submitted to the City Clerk at the Office of the City Clerk, 2nd Floor, City Administration Building, 202 "C" Street, San Diego, California, 92101.

ITEM-252: **Notice** of Pending Final Map Approval – 4086 Alabama Street Condominiums.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “4086 Alabama Street Condominiums” (T.M. No. 8975), a copy of which is available for public viewing at the Office of the San Diego City Clerk. Said project is located in the southwesterly of Polk Avenue and Alabama Street in the Greater North Park Community Planning Area in Council District 3. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

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

ITEM-253: **Notice** of Pending Final Map Approval – 4357 Oregon Street.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “4357 Oregon Street” (T.M. No. 23431), located northeasterly of El Cajon Blvd, and Oregon Street in the Greater North Park Community Planning Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

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

ITEM-254: Notice of Completion and Acceptance of Subdivision Improvement Agreement.

Notice is hereby given that the City Manager of the City of San Diego intends to file a "Notice of Completion and Acceptance of Subdivision Improvement Agreement" indicating that the improvements included in the Subdivision Improvement Agreement have been satisfactorily completed for the following subdivisions:

SUBDIVISION

COMMUNITY AREA

Citymark El Cortez

Centre City

The certification shall be recorded 15 days after the date this notice appears on the Council Docket or shortly thereafter. If any person wishes to object to the filing of this notice, such person should communicate the objection on or before that date to the Director of Development Services or to the Subdivision Engineer, City Operations Building, 1222 First Avenue (MS 507), San Diego, CA 92101.

ITEM-S400: Torrey Pines High School Boys Lacrosse Day.

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-143) ADOPTED AS RESOLUTION R-299514

Proclaiming August 2, 2004 to be "Torrey Pines High School Boys Lacrosse Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:07 p.m. – 3:12 p.m.)

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

ITEM-S401: In the Matter of Information Report Update on FY 2004 – 2005 State Budget.

REPORT ACCEPTED

(See memorandums from Andrew Poat dated 7/8/2004 and 7/13/2004.)

(Continued from the meetings of July 13, 2004, Item S401, July 19, 2004, Item S401, and July 27, 2004, Item S403, last continued at the request of Councilmember Madaffer, for further review.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:06 p.m. – 4:26 p.m.)

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

ITEM-S402: Two actions related to Rancho Bernardo Maintenance Assessment District.

(Rancho Bernardo Community Area. District-5.)

(Continued from the meeting of July 27, 2004, Item 341, at Councilmember Frye's request, to allow time for vote tabulation.)

NOTE: Public testimony portion of hearing closed. No testimony taken on 7/27/2004.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem A: (R-2004-1174) FILED

Approving Fiscal Year 2005 Budget for the Rancho Bernardo Maintenance Assessment District.

Subitem A: (R-2004-1176) FILED

Considering the protests, approving Engineer's Report, confirming the assessments, and ordering the proposed maintenance, in the matter of the 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.

<u>EXPENSES:</u>	<u>FY 2005</u>	<u>Maximum Authorized</u>
Personnel	\$36,993	\$36,993
Contract	\$251,961	\$308,816
Incidentals	\$60,491	\$74,541
Energy and Utilities	<u>\$21,943</u>	<u>29,094</u>
TOTAL EXPENSES	\$371,388	449,444
<u>REVENUES:</u>		
Assessments	\$364,420	\$449,494
City Contributions-Gas Tax	\$33,872	\$33,872
Interest	<u>\$5,000</u>	<u>\$5,000</u>
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: M-400 (34)

COUNCIL ACTION: (Time duration: 3:14 p.m. – 3:14 p.m.)

Deputy City Clerk Elizabeth Maland announced that the election has been conducted according to Assessment Proceedings. Ms. Maland announced that the ballots in opposition exceeded the ballots in favor, with the majority vote in opposition, and that the proposed increase to the Annual Assessment and to incorporate new areas for assessment

and maintenance have failed. Ms. Maland then certified the results of the election and submitted them to the City Council.

ITEM-S403: Three actions related to the Torrey Highlands Maintenance Assessment District.

(Torrey Highlands Community Area. District-1.)

(Continued from the meeting of July 27, 2004, Item 342, at Councilmember Madaffer's request, to allow time for vote tabulation.)

NOTE: Public testimony portion of hearing closed. No testimony taken on 7/27/2004.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2004-1192) ADOPTED AS RESOLUTION R-299532

Considering the protests, approving Assessment Engineer's Report, confirming the Assessments, and ordering the proposed maintenance, in the matter of the Torrey Highlands Maintenance Assessment District.

Subitem-B: (R-2004-1193) ADOPTED AS RESOLUTION R-299533

Approving Fiscal Year 2005 Budget for the Torrey Highlands Maintenance Assessment District.

Subitem-C: (R-2004-1194) ADOPTED AS RESOLUTION R-299534

Authorizing the City Auditor and Comptroller to establish the Torrey Highlands Maintenance Assessment District fund.

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 Peñasquitos Preserve and east of Rancho Peñasquitos. 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.

	<u>FY 2005⁽¹⁾</u>	<u>Maximum Authorized⁽²⁾</u>
<u>EXPENSES</u>		
Personnel	\$0	\$67,803
Contract	\$0	\$398,301
Incidentals (3)	\$80,000	\$92,546
Energy and Utilities	<u>\$0</u>	<u>\$56,741</u>
TOTAL EXPENSES	\$80,000	\$615,391
<u>REVENUES</u>		
Assessments--- Zone 1	\$41,432	\$195,348
Assessments--- Zone 2	\$78,572	\$370,397
Assessments--- Zone 3	\$0	\$99,739
City Contributions—Gas Tax	<u>\$0</u>	<u>\$24,154</u>
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 contained in Assessment Engineer’s Report.
- (3) Includes cost of formation, assessment enrollment, oversight, and original ballot process of February/March 2004.

CITY MANAGER SUPPORTING INFORMATION: (Continued)

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: M-497 (34)

COUNCIL ACTION: (Time duration: 3:15 p.m. – 3:15 p.m.)

Deputy City Clerk Elizabeth Maland announced that the election has been conducted according to Assessment Proceedings. Ms. Maland announced that the ballots in favor exceeded the ballots in opposition, with the majority vote in favor, and that the proposed assessment has passed. Ms. Maland then certified the results of the election and submitted them to the City Council.

MOTION BY PETERS TO ADOPT THE RESOLUTIONS, ACCEPTING THE ELECTION RESULTS AND ESTABLISHING THE MAINTENANCE ASSESSMENT DISTRICT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S404: Two actions related to Peñasquitos East Maintenance Assessment District.

(Rancho Peñasquitos Community Area. District-1.)

(Continued from the meeting of July 27, 2004, Item 343, at Councilmember

Peters' request, to allow time for vote tabulation.)

NOTE: Public testimony portion of hearing closed. No testimony taken on 7/27/2004.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A (R-2004-1114) FILED

Considering the protests, approving Engineer's Report, confirming the assessments, and ordering the proposed maintenance, in the matter of the Peñasquitos East Maintenance Assessment District.

Subitem-B: (R-2004-1115) FILED

Approving Fiscal Year 2005 Budget for the 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 EXPENSE	\$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
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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: M-389 (34)

COUNCIL ACTION: (Time duration: 3:16 p.m. – 3:16 p.m.)

Deputy City Clerk Elizabeth Maland announced that the election has been conducted according to Assessment Proceedings. Ms. Maland announced that the ballots in opposition exceeded the ballots in favor, with the majority vote in opposition, and that the

proposed increase to the Annual Assessment and to incorporate new areas for assessment and maintenance have failed. Ms. Maland then certified the results of the election and submitted them to the City Council.

ITEM-S405: Eight actions related to Submitting to the Voters Various Ballot Propositions Relating to Recommendations to Raise Transient Occupancy Tax (TOT) from 10.5% to 13%.

(See City Manager Reports CMR-04-144 and CMR-04-155; memorandum from Charles G. Abdelnour dated 6/28/2004, memorandum from Bill Baber dated 6/28/2004, and PowerPoint. See memorandums from Bruce Herring dated 7/23/2004 and 7/21/2004, which were not available at Committee.)

(Continued from the meeting of July 26, 2004, Item S404, Subitems A-G, at the request of City Council, for further review.)

TODAY'S ACTIONS ARE:

Consider introduction and adoption any of the ordinances in Subitem A, Subitem B, Subitem C, and Subitem D. **NOTE:** Within Subitem D there are two subparts: D1, the general tax proposal may be adopted as a stand alone measure or D2 may also be adopted to direct the City Attorney and City Manager to return to Council no later than October 1, 2004, with potential amendments to Council Policy 100-03 and the San Diego Municipal Code related to establishment of a Tourism Promotion Board.

Subitem-A: (O-2005-15) TRAILED TO TUESDAY, AUGUST 3, 2004

Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide General Election to be held on November 2, 2004, one proposition related to increasing the City's Transient Occupancy Tax from 10.5% to 13%.

This option has been proposed by Local 145/POA and the Lodging Association. It allocates 1.25 cents for Fire Safety equipment, facilities, infrastructure and deferred maintenance needs including an upgrade to communications systems, and 1.25 cents for Police equipment, facilities, infrastructure and deferred maintenance needs including an upgrade to communications system, and 2.5 cents to be deposited into a Tourism Promotion Fund. The measure also amends the Municipal Code to establish

a Tourism Promotion Advisory Board with jurisdiction to make recommendations to the City Council with respect to allocations of the Tourism Promotion Fund. This option is a special tax earmarking proceeds of the tax for specific purposes and thus requires 2/3 approval from the voters.

Subitem-B: (O-2005-16) TRAILED TO TUESDAY, AUGUST 3, 2004

Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide General Election to be held on November 2, 2004, one proposition related to increasing the City's Transient Occupancy Tax from 10.5% to 13%.

This option has been proposed by Councilmember Maienschein as a modification to the Local 145/POA and Lodging Association proposal. It allocates 1.25 cents for Fire Safety equipment, facilities, infrastructure and deferred maintenance and 1.25 cents for Police equipment, facilities, infrastructure and deferred maintenance. However, it specifically prioritizes and allocates funding from FY 2005 through FY 2012 for the Public Safety Communications Plan. This measure also allocates 2.5 cents to be deposited into a Tourism Promotion Fund and amends the Municipal Code to establish a Tourism Promotion Advisory Board with jurisdiction to make recommendations to the City Council with respect to allocations of the Tourism Promotion Fund. This option is a special tax earmarking proceeds of the tax for specific purposes and thus requires 2/3 approval from the voters.

Subitem-C: (O-2005-17) TRAILED TO TUESDAY, AUGUST 3, 2004

Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide General Election to be held on November 2, 2004, one proposition related to increasing the City's Transient Occupancy Tax from 10.5% to 13%.

This option has been proposed by Councilmember Donna Frye. It allocates 1.25 cents to fund Fire-Rescue and 1.25 cents for Police Department deferred maintenance and new equipment and facility needs until June 30, 2008, after which the funds may be used for general governmental purposes. This option is a special tax earmarking proceeds of the tax for specific purposes and thus requires 2/3 approval from the voters.

Subitem-D1: (O-2005-18) TRAILED TO TUESDAY, AUGUST 3, 2004

Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide General Election to be held on November 2, 2004, one proposition related to amending the City Charter and the San Diego Municipal Code to increase the City's Transient Occupancy Tax from 10.5% to 13%.

This option has been proposed by the City Manager to raise TOT from 10.5% to 13% for general governmental purposes. This option is a general tax and thus requires a simple majority approval from the voters.

Subitem-D2: (R-2005-150) TRAILED TO TUESDAY, AUGUST 3, 2004

Directing the City Attorney and City Manager to return to Council no later than October 1, 2004, with potential amendments to Council Policy 100-03 and the San Diego Municipal Code related to establishment of a Tourism Promotion Board.

Subitem-E: TRAILED TO TUESDAY, AUGUST 3, 2004

In the matter of Council direction regarding the City Attorney's impartial analysis on any of the ballot measures approved for placement on the ballot.

Subitem-F: TRAILED TO TUESDAY, AUGUST 3, 2004

In the matter of Council direction regarding the City Manager's fiscal analysis of on any of the ballot measures approved for placement on the ballot.

Subitem-G: TRAILED TO TUESDAY, AUGUST 3, 2004

In the matter of Council direction regarding authorship of ballot arguments for any of the ballot measures approved for placement on the ballot.

**RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S
RECOMMENDATION:**

On 7/14/2004, RULES voted 3 to 1 to forward to the full City Council without recommendation. (Councilmembers Peters, Maienschein, and Mayor Murphy voted yea. Councilmember Madaffer voted nay. Councilmember Atkins not present.)

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:36 p.m. – 4:05 p.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 5:47 p.m. in honor of the memory of:

Jack Matlock as requested by Deputy Mayor Atkins;
Pastor Fred Marvin Young as requested by Council Member Lewis;
Gary Maienschein as requested by Council Member Maienschein; and
John and Lucille Struiksma as requested by Mayor Murphy.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:41 p.m. – 5:47 p.m.)