

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, SEPTEMBER 14, 2004
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 10:04 a.m. with Council Members Zucchet and Inzunza not present and District 4 vacant.

Mayor Murphy recessed the meeting at 11:00 a.m. to convene the Redevelopment Agency. Mayor Murphy reconvened the meeting at 11:06 a.m. with all Council Members present and District 4 vacant. Mayor Murphy recessed the meeting at 11:21 a.m. to reconvene the Redevelopment Agency. Mayor Murphy convened the Joint Council and Redevelopment Agency at 11:23 a.m. with all Council Members present and District 4 vacant. Mayor Murphy reconvened the regular meeting at 11:33 a.m. with all Council Members present and District 4 vacant.

Mayor Murphy recessed the meeting at 11:41 a.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 11:48 a.m. with Council Member Inzunza not present and District 4 vacant. Mayor Murphy recessed the meeting at 12:00 p.m. for the noon break, to be reconvened at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:09 p.m. with all Council Members present and District 4 vacant.

Mayor Murphy introduced Mr. Philip Mangano, White House Executive Director for the Interagency Council on Homelessness, who spoke on the outstanding collection of citizens from San Diego who make up the Leadership Council and who work in conjunction with other governmental agencies to address the problem of the nation's veterans and homeless individuals.

Mayor Murphy recessed the meeting at 4:01 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 4:10 p.m. with all Council Members present and District 4 vacant. Mayor Murphy adjourned the meeting at 5:35 p.m.

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 District 4-vacant
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Inzunza-present
- Clerk-Abdelnour/Lane (er/ek)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-not present
- (3) Council Member Atkins-present
- (4) Council District 4-vacant
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-not present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Louise Torio commented on the work City Planner Brian Schoenfisch has been doing in Council Districts 3, 4, and 8 and the desire of the community that he remain working in their Council Districts.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:06 a.m. – 10:10 a.m.)

PUBLIC COMMENT-2: REFERRED TO THE CITY MANAGER

Bonnie Poppe requested that City Planner Brian Schoenfisch remain working in Council Districts 3, 4, and 8.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:10 a.m. – 10:13 a.m.)

PUBLIC COMMENT-3:

Phil Hart commented on the City's finances and ballot arguments.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:17 a.m.)

PUBLIC COMMENT-4:

Ron Boshun commented on Council's actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:17 a.m. – 10:20 a.m.)

PUBLIC COMMENT-5:

Shawn Chamberline and Ron Shamoun commented on the liquor license for the Quik Stop convenience store in Ocean Beach.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:20 a.m. – 10:22 a.m.)

PUBLIC COMMENT-6:

Ian Trowbridge commented on San Diego Data Processing Corporation and conflict of interest matters.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:22 a.m. – 10:25 a.m.)

PUBLIC COMMENT-7:

Susie Shimasaki commented on the alcohol billboard ordinance.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:29 a.m.)

PUBLIC COMMENT-8:

Arleen Freeman commented on the Sister City resolution.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:33 a.m.)

PUBLIC COMMENT-9:

Ken Perkal commented on the Mission Hills Business Improvement District.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:36 a.m.)

PUBLIC COMMENT-10:

Al Strohleim commented on the number of alcohol licenses issued to businesses in Pacific Beach.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:39 a.m.)

PUBLIC COMMENT-11:

Muhammed Abdulla commented on the City's plan to protect citizens against terrorism.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:42 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Mayor Murphy, Council Member Madaffer, Mel Katz, and Ana Tatar announced that September is Library Card Sign-up Month and thanked everyone for their support of the Library System. Ana Tatar announced that Mayor Murphy was recognized as the Politician of the Year for 2004 in the "Library Journal."

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:43 a.m. – 10:50 a.m.)

COUNCIL COMMENT-2:

Council Member Maienschein recognized and congratulated the City employees involved in the State Route 56 project.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:50 a.m. – 10:55 a.m.)

COUNCIL COMMENT-3:

Council Member Peters also congratulated the employees involved in the SR-56 project and announced California Coastal Clean-up Day.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:53 a.m. – 10:56 a.m.)

COUNCIL COMMENT-4:

Council Member Frye commended the San Diego Surf Rider Foundation for the 13th Annual Paddle for Clean Water Day.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:56 a.m. – 10:59 a.m.)

COUNCIL COMMENT-5:

Council Member Zucchet encouraged people to participate in the next annual Paddle for Clean Water Day.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:59 a.m. – 11:00 a.m.)

CITY MANAGER COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-330: La Jolla Children's Pool Joint Use.

(Continued from the meeting of August 10, 2004, Item 330, at the request of Councilmember Peters, due to lack of time.)

(See City Manager Report CMR-04-135; Meeting Guide submitted by James Hudnall and Gabriel Solmer; and Report from Martha Patricia Argomedo Weisz dated 6/17/2004. La Jolla Community Area. District-1.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-112) ADOPTED AS AMENDED AS RESOLUTION R-299646

Authorizing the City Manager to:

- a) perform preliminary studies, initiate design and permit applications, and actions incidental to these functions, in order to comply with the accepted City Council recommendation, noting that this action does not constitute a decision to proceed with construction of the project as recommended, and does not foreclose the analysis of alternatives or mitigation measures that would ordinarily be a part of environmental or permit review for the Project;
- b) return to City Council with the appropriate environmental document for review and certification for approval in order to comply with the accepted recommendation for the Project; and
- c) take all necessary actions to seek, apply for, accept, and secure donations in order to comply with the accepted recommendation for the Project.

Authorizing the City Auditor and Comptroller to:

- a) establish a special interest-bearing fund for the La Jolla Children's Pool donations in reference to the Project;
- b) add CIP-29-872.0, La Jolla Children's Pool – Joint Use, to the Fiscal Year 2005 Capital Improvements Program for the Project;
- c) increase the Fiscal Year 2005 Capital Improvement Program budget in CIP-29-872.0, La Jolla Children's Pool – Joint Use, up to the amount received for the Project; and

- d) appropriate and expend donations, if secured, up to the amounts secured for purposes of design initiation, environmental documents, permit applications, and actions incidental to these functions in order to comply with the accepted recommendation from CIP-29-872.0, La Jolla Children's Pool – Joint Use, provided that the City Auditor and Comptroller first furnishes a certificate certifying that the funds are, or will be, on deposit with the City Treasurer.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 6/23/2004, NR&C voted 5 to 0 to forward to the full City Council with no recommendation. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

SUPPORTING INFORMATION:

On April 1, 2003, the Mayor and City Council directed the City Manager to return to the Natural Resource and Cultural Committee (NR&C) this year with a strategy to do the following: "In compliance with Federal Law, to reduce pollution levels in the sand and to return the Children's Pool to recreational use for children, including accessible uses, thus restoring this area to the joint use of seals, divers, fishermen, children and their families." A report was given before the NR&C on June 23, 2004. The NR&C voted unanimously to refer the matter to the full City Council.

The Manager's Report # 04-135 was presented to the NR&C. A strike out/underlined version is provided with the only changes being correcting a typographical error for the Technical Advisory Committee members; a clarification of the proximity of the Children's Pool to the La Jolla Underwater Park; and, a clarification that Ellen Browning Scripps contracted with the builder of the breakwater as opposed to the City of San Diego. Otherwise, the content, information and recommendations remain unchanged. The City Council is being requested to approve initiation of the design of a seasonal joint use recommendation provided by the City Manager. Since funds, permits and environmental review are required, this action does not constitute a decision to proceed with construction of the project, nor does it foreclose analysis of alternatives or mitigation measures that would ordinarily be part of environmental or permit review. In addition, upon full review of: a) any permit conditions (if any), b) a completed environmental document, and c) the construction documents, City Council action will be required to authorize the construction project.

FISCAL IMPACT:

1. The estimated cost to dredge the Children's Pool ranges between \$250,000 and \$500,000. This cost includes construction documents, permits, environmental, administration, and construction.
2. The cost to provide testing per year is \$3,000. This cost may potentially be borne by the County Environmental Health Department.

3. The cost to rework the soil on a yearly basis per the County Environmental Health Department's non-advisory status is \$5,000 per year.
4. The cost to provide dredging every three to five years, budgeted on a yearly basis is \$50,000.
5. The cost for a limited full time ranger position with associated non personnel expense to provide education interpretation of the area and manage the mixed use of the site is \$75,000 per year.

Herring/Oppenheim/AP

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:52 a.m. – 12:00 p.m.; 2:29 p.m. – 5:34 p.m.)

MOTION BY PETERS TO ADOPT THE RESOLUTION AS AMENDED TO APPROVE THE CITY MANAGER'S ALTERNATIVE RECOMMENDATION 1 IN CITY MANAGER REPORT 04-135 THAT WOULD MODIFY THE STAFF RECOMMENDATION TO DESIGN AND PERMIT THE SAND REMOVAL PROJECT AND OPEN THE POOL FOR YEAR-ROUND USE. DIRECT THAT THE OPENING OF THE SLUICWAYS IN THE CHILDREN'S POOL BE EVALUATED AS AN ALTERNATIVE METHOD TO OBTAIN SAND REMOVAL AND TIDAL FLUSHING AS PART OF THIS EFFORT. DIRECT THAT THE ROPE BARRIERS AND SIGN POSTS BE IMMEDIATELY REMOVED TO RESTORE PUBLIC ACCESS TO THE AREA AND THAT NEW SIGNS BE PLACED ON THE LIFEGUARD TOWER INDICATING THAT PUBLIC ACCESS IS PERMITTED BUT THAT SEAL HARASSMENT IS A VIOLATION OF THE MARINE MAMMAL PROTECTION ACT. THESE SIGNS SHOULD ALSO INDICATE THE BACTERIA LEVELS GARNERED FROM TESTING IN THE AREA, WHICH SIGNS ARE CONSISTENT WITH THE RECOMMENDATIONS OF THE PARK AND RECREATION DEPARTMENT. DIRECT THAT CIP FUND NO. 29-872 BE CREATED FOR THE LA JOLLA CHILDREN'S POOL TO PROVIDE FOR FUTURE FUNDING. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-nay, Atkins-nay, Council District 4-vacant, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-331: First Implementation Agreement with Ken-Tal Senior Partner, L.P. for Development of Talmadge Senior Village Housing Project.

(See Redevelopment Agency Report RA-04-33/CMR-04-194. Ken-Tal Community Planning Area/City Heights Redevelopment Project Area. District-3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-245) ADOPTED AS RESOLUTION R-299637

Authorizing the use of Housing Set-aside Funds in an amount not to exceed One Million One Hundred Ninety Thousand Five Hundred Seventy Six (\$1,190,576) from the Centre City Redevelopment Project to be used outside the Centre City Redevelopment Project Area for the Talmadge Senior Village Project within the City Heights Redevelopment Project Area;

Finding and determining that the use of Housing Set-aside funds from the Centre City Redevelopment Project is of benefit to the Redevelopment Project;

Adopting the Findings of Benefit to the Centre City Redevelopment Project.

NOTE: See the Redevelopment Agency Agenda of 9/14/2004 for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:07 a.m. – 11:21 a.m.)

MOTION BY ATKINS TO ADOPT WITH DIRECTION TO THE CITY MANAGER TO DIRECT AGENCIES THAT RECEIVE PUBLIC MONEY FOR HOUSING UNITS TO INCORPORATE UNIVERSAL DESIGN IN THOSE UNITS. THE CITY MANAGER SHALL PROVIDE A REPORT TO CITY COUNCIL WITH AN ANALYSIS OF GROUND UNITS UNIVERSAL DESIGN. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-332: Proposed Additions and Deletion of Text to the Procedures for Formation of Project Area Committee (PAC) for Centre City Redevelopment Project.

(See Centre City Development Corporation Report CCDC-04-20. Centre City Redevelopment Project. District-2.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-237) ADOPTED AS RESOLUTION R-299638

Changing Article C, Section (§603), Point 1 of the Procedures of a PAC to state “Charitable Organizations-501c(3) organizations that have as their primary mission the provision of support services within the Project Area such as shelter, food, and clothing, counseling and medical assistance”.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:33 a.m. – 11:34 a.m.)

MOTION BY ZUCCHET TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-333: First Amendment to Redevelopment Plan for Southcrest Redevelopment Project.

(See Southeastern Economic Development Corporation Report SEDC-04-009. Southeastern San Diego Community Area. District-4.)

**SOUTHEASTERN ECONOMIC DEVELOPMENT CORPORATION’S
RECOMMENDATION:**

Adopt the following resolution:

(R-2005-220) ADOPTED AS RESOLUTION R-299639

Consenting to a joint public hearing with the Redevelopment Agency on the proposed First Amendment to the Redevelopment Plan for the Southcrest Redevelopment Project; authorizing the establishment of a date, time, and place for the hearing; and authorizing publication and mailing of notice of the joint public hearing.

NOTE: This is a Special Joint Public Hearing with the Redevelopment Agency. See the Redevelopment Agency Agenda of September 14, 2004 for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:06 a.m. – 11:07 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-334: Two actions related to Disposition and Development Agreement Between Redevelopment Agency of the City of San Diego and Oak Shelter Systems, LLC, for Island Market Centre Project.

(See Centre City Development Corporation Report CCDC-04-33/CCDC-04-18. 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 resolutions:

Subitem-A: (R-2005-236) ADOPTED AS RESOLUTION R-299640

Approving sale of certain property located generally on the full block bounded by 13th, 14th and Market Streets and Island Avenue in the East Village Redevelopment District of the Expansion Sub Area in the Centre City Redevelopment Project Area to Oak Shelter Systems, LLC; approving the Disposition and Development Agreement pertaining thereto; and making certain findings with respect to such sale.

Subitem-B: (R-2005-238) ADOPTED AS RESOLUTION R-299641

Certifying that the City Council has reviewed and considered information contained in the Master Environmental Impact Report for the Centre City Redevelopment Project, the Subsequent Environmental Impact Report to the MEIR for the Proposed Ballpark and Ancillary Development Projects, and Associated Plan Amendments, and the Secondary Study with respect to the Proposed Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and Oak Shelter Systems, LLC; and making certain findings and determinations regarding environmental impacts of the development pursuant thereto.

NOTE: This is a Special Joint Public Hearing with the Redevelopment Agency. See the Redevelopment Agency Agenda of September 14, 2004 for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:23 a.m. – 11:32 a.m.)

Testimony in favor by Gary Smith.

MOTION BY ZUCCHET TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zuchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea (nay on subitem b), Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-335: Three actions related to Approval of Gaslamp Quarter Special Permit #2004-20 for Residence Inn by Marriott.

(See Centre City Development Corporation Report CCDC-04-19. Gaslamp Quarter Sub Area of the Centre City Redevelopment Project. District-2.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-240) ADOPTED AS RESOLUTION R-299642

Approving Gaslamp Quarter Special Permit No. 2004-20 for the Residence Inn by Marriott Project within the Gaslamp Quarter Sub Area of the Centre City Redevelopment Project.

Subitem-B: (R-2005-241) ADOPTED AS RESOLUTION R-299643

Approving a height exception of up to 125 feet for the Residence Inn by Marriott Project within the Gaslamp Quarter Sub Area of the Centre City Redevelopment Project.

Subitem-C: (R-2005-239) ADOPTED AS RESOLUTION R-299644

Certifying that the Council has reviewed and considered information contained in the Master Environmental Impact Report and the Final Subsequent Environmental Impact Report for the Centre City Redevelopment Project and the Secondary Study with respect to Gaslamp Quarter Special Permit No. 2004-20 (Residence Inn by Marriott) and making certain findings and determinations regarding environmental impact of the development pursuant thereto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:34 a.m. – 11:39 a.m.)

Testimony in opposition by Gary Smith.

MOTION BY ZUCCHET TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea (nay on subitem c), Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S406: Appeal of Environmental Determination for the Mi Arbolito Project.

Matter of the appeal by Bankers Hill, Hillcrest Park West Community Preservation Group in care of Johnson and Hanson, L.L.P. of the decision by City staff that the subject project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 of the State CEQA Guidelines.

(See City Manager Report CMR-04-139. Uptown Community Plan Area. District-3.)

(Continued from the meetings of July 13, 2004, Item 335, August 10, 2004, Item 333, and September 7, 2004, Item 330, last continued at the request of the community to give the community time to respond and offer comments.)

NOTE: Hearing open. No testimony taken on 9/7/2004.
Hearing open. No testimony taken on 8/10/2004.
Hearing open. No testimony taken on 7/13/2004.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution to deny the appeal, and uphold the Staff determination that the Mi Arbolito Project is exempt from the California Environmental Quality Act per Section 15332 of the State CEQA Guidelines.

(R-2005-) DENIED APPEAL, ADOPTED AS RESOLUTION R-299633

Adoption of a resolution granting or denying the appeal, and upholding or overturning the Environmental Determination, with appropriate findings to support Council action.

CITY MANAGER SUPPORTING INFORMATION:

The proposed project is a 14-story, 14-unit multi-family residential building over underground parking. The 10,247-square-foot site is zoned MR-400 and is located on the northeast corner of the intersection of Sixth Avenue and Upas Street.

This appeal is before the City Council because of an amendment to CEQA. Effective January 1, 2003, Section 21151(c) of CEQA has been amended as follows: *If a non-elected decision making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision making body, if any.*

Pursuant to this amended legislation, Banker's Hill, Hillcrest, Park West Community Preservation Group c/o Johnson & Hanson, LLP filed an appeal of the staff environmental determination to exempt the project on April 12, 2004. However, this new appeal process applies only to the environmental determination.

The appeal is partly based on the allegation that an Environmental Impact Report (EIR) should have been prepared for the project. CEQA and case law require the preparation of an EIR when there is a fair argument that there is substantial evidence, in light of the whole record, that a project may have a significant impact on the environment. Section 21080(e) of CEQA states that ". . . substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact. Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative..."

The exemption prepared for this project is a categorical exemption found in Section 15332 of the State CEQA guidelines (Infill Development Projects). The appeal is also partly based on the following standard for using categorical exemptions:

Section 15300.2 (c) - Significant effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to **unusual circumstances** [emphasis added].

Finally, the appeal is also based on the applicability of the following conditions. A finding that these conditions have been met is a necessary precedent to using the Section 15332 exemption:

Section 15332 (a) - The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

Section 15332 (d) - Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

The staff response to each of these challenges has been provided below within the list of the appellants' specific concerns.

Pursuant to the issued permits noted below, construction of the underground parking garage is currently underway on the site.

<u>Date Submitted</u>	<u>Permit Type</u>	<u>Application #</u>	<u>Status</u>
March 27, 2003	Map Waiver and SDP	6686	Not Completed; Withdrawn
June 23, 2003	Grading/Temp Shoring	10278	(Approved, W-51473) Closed.
July 16, 2003	Building Permit: Footings	11489	(Approved, # 21521)
October 2, 2003	Building Permit: Building	15900	Approval Pending
January 7, 2004	Tentative Map	19032	Withdrawn

Because the Map Waiver and Tentative Map applications placed the City on notice that the project may require an approval by the Planning Commission (which would be deemed a "discretionary" decision for purposes of CEQA), the Environmental Analysis Section (EAS) of the Development Services Department reviewed this project assuming that the applications may be resubmitted. Since this project did not include an application for a Tentative Map or Map Waiver at the time it was reviewed by EAS, EAS could not deem this project to be a "discretionary" project for CEQA purposes. However, since Mi Arbolito, LLC had twice placed the City on notice that the project may require a discretionary decision; EAS considered the CEQA review requirements for this project assuming it may include a discretionary decision in the future.

FISCAL IMPACT:

All costs associated with processing approvals of this project are paid from an existing fee paid by the applicant and, possibly, a future deposit account that would be maintained by the applicant if the applicant re-submits an application for a discretionary approval. Staff costs associated with processing this appeal have been borne by the Development Services Department because there is currently no deposit on account with Development Services.

Loveland/Christiansen/CZ

FILE LOCATION: LUP – Appeal of Environmental Determination for the Mi Arbolito Project, 7/13/04 (65)

COUNCIL ACTION: (Time duration: 11:48 a.m. – 11:50 a.m.)

MOTION BY ATKINS TO RECONSIDER. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

MOTION BY ATKINS TO ADOPT STAFF'S RECOMMENDATION TO DENY THE APPEAL AND UPHOLD THE STAFF DETERMINATION THAT THE MIARBOLITO PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PER SECTION 15332 OF THE STATE CEQA GUIDELINES. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-nay, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-S407: Confirmation of Agreement with Orrick, Herrington and Sutcliffe for General Legal Services.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-261) CONTINUED TO MONDAY, SEPTEMBER 27, 2003

Authorizing the City Manager to execute the Confirmation of Agreement with Orrick, Herrington & Sutcliffe, for General Legal Services, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$470,216.75 (\$31,549.46 from Fund 10253, Dept. 10253, Org. 2001, Acct. 4151; \$171,005.99 from Fund 102214, Dept. 102214, Org. 250, Acct. 4151; \$31,549.46 from Fund 102212, Dept. 102212, Org. 100, Acct. 4151; \$31,549.46 from Fund 100, Dept. 601, Org. 3300, Acct. 4151; \$ 31,549.46 from Fund 10330, Dept. 930, Org. 2200, Acct. 4151; \$31,549.46 from Fund 10226, Dept. 918, Acct. 4151; \$31,549.46 from Fund 102240, Dept. 1024, Org. 1854, Acct. 4151; \$94,542.75 from Fund 72016, Dept. 92016, Acct. 4151; \$15,371.25 from Fund 41500, Dept. 760, Org. 163, JO 4141, Acct. 001015), for the purpose of providing funds for the above referenced Project.

SUPPORTING INFORMATION:

City previously retained the services of Orrick to render legal advice and assist the City with general legal services pertaining to disclosure issues for City bond financings. As directed by the City Attorney's Office, Orrick provided the City with the following general legal services related to such financings: (1) prepared voluntary disclosure for the General Fund; (2) prepared Rule 15c2-12 annual reports for the General Fund; (3) prepared voluntary disclosure for the Wastewater System of the City [Wastewater System]; (4) prepared a Rule 15c2-12 annual report for the Wastewater System; (5) prepared a Rule 15c2-12 annual report for the Water Utility System of the City; and (6) substituted amounts on deposit in the reserve fund established under the Indenture related to the Ballpark Project with debt service reserve credit facility. Payments for these services are usually funded through bond proceeds, however, the issuance of bonds related to the Firm's services has been delayed and it is appropriate to provide for alternative funding. Funds are available from various project accounts related to the Firm's services.

FISCAL IMPACT:

Expenditure of an amount not to exceed \$470,216.75 as follows: (\$31,549.46 from Fund 10253, Dept. 10253, Org. 2001, Acct. 4151; \$171,005.99 from Fund 102214, Dept. 102214, Org. 250, Acct. 4151; \$31,549.46 from Fund 102212, Dept. 102212, Org. 100, Acct. 4151; \$31,549.46 from Fund 100, Dept. 601, Org. 3300, Acct. 4151; \$ 31,549.46 from Fund 10330, Dept. 930, Org. 2200, Acct. 4151; \$31,549.46 from Fund 10226, Dept. 918, Acct. 4151; \$31,549.46 from Fund 102240, Dept. 1024, Org. 1854, Acct. 4151; \$94,542.75 from Fund 72016, Dept. 92016, Acct. 4151; \$15,371.25 from Fund 41500, Dept. 760, Org. 163, JO 4141, Acct. 001015).

Noone/KS

Aud. Cert. 2500245.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:05a.m.)

MOTION BY ATKINS TO CONTINUE TO MONDAY, SEPTEMBER 27, 2004, AT THE REQUEST OF THE CITY ATTORNEY FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-not present, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-S500: El Cajon Boulevard Medians Crossroads Redevelopment Project.

(See Redevelopment Agency Report RA-04-32/CMR-04-191. College Community Area. District-7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-257) ADOPTED AS RESOLUTION R-299645

Making certain findings with respect to the payment for the El Cajon Boulevard Median Improvements; accepting the transfer of funds from the Redevelopment Agency in the amount of \$1,750,000; amending the Capital Improvement Program Budget No. 39-234.0 to include the \$1,750,000; and authorizing the transfer of \$200,000 from the City of San Diego to the Grantville Redevelopment Survey Area.

NOTE: See the Redevelopment Agency Agenda of 9/14/2004 for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:33 a.m. – 11:33 a.m.)

MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Council District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 5:35 p.m. in honor of the memory of:

Robin Stribley as requested by Council Member Peters; and
John Kruer as requested by Council Member Peters.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:50 a.m. – 11:52 a.m.; 5:35 p.m.)