

THE CITY OF SAN DIEGO, CALIFORNIA
 MINUTES FOR REGULAR COUNCIL MEETING
 OF
 MONDAY, OCTOBER 4, 2004
 AT 2:00 P.M.
 IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:13 p.m. Mayor Murphy adjourned the meeting at 3:43 p.m. to convene the Special Redevelopment Agency and thereafter meet immediately in Closed Session in the Twelfth Floor Committee Room to discuss existing and potential litigation.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) District Four-vacant
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour (gs)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) District Four-vacant
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by City Clerk Chuck Abdelnour.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Deputy Mayor Atkins.

FILE LOCATION: MINUTES

ITEM-30: San Diego Innovation and Investment Month.

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-339) ADOPTED AS RESOLUTION R-299705

Recognizing the support of businesses, industry, and people in our community for innovation and ideas that are essential for San Diego's continued economic success;

Proclaiming October 2004 to be "San Diego Innovation and Investment Month" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:22 p.m. – 2:29 p.m.)

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

ITEM-31: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

09/06/2004 - Adjourned
09/07/2004
09/13/2004
09/14/2004

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:16 p.m.)

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

CLOSED SESSION ITEMS:

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

**CS-1 *Malden 2 LLC v. City of San Diego, et al.*
San Diego Superior Court No. GIC 832716**

REFERRED TO CLOSED SESSION ON MONDAY, OCTOBER 4, 2004

DCA assigned: Cord

This case concerns a nearly-completed residence which was recently found to have a possible non-dangerous building code violation, correction of which might require demolition of the structure. In closed session, the City Attorney and City Manager will brief the council regarding this matter and disposition alternatives.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:50 p.m. – 2:51 p.m.)

Mayor Murphy closed the hearing.

**CS-2 *Kelly v. City of San Diego*
San Diego Superior Court No. GIC 824370**

REFERRED TO CLOSED SESSION ON MONDAY, OCTOBER 4, 2004

DCA assigned: Karlin

This is a complaint, which arises from a sewer back-up that damaged Plaintiff 's home in Encanto. In closed session, the City Manager and City Attorney will brief the City Council on the matter and discuss a proposed settlement of the case.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:50 p.m. – 2:51 p.m.)

Mayor Murphy closed the hearing.

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

REFERRED TO CLOSED SESSION ON MONDAY, OCTOBER 4, 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.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:50 p.m. – 2:51 p.m.)

Mayor Murphy closed the hearing.

**CS-4 *Roberta Crandall, etc. v. City of San Diego, et al.*
United States District Court Case No. 02cv2124 J (POR)**

REFERRED TO CLOSED SESSION ON MONDAY, OCTOBER 4, 2004

DCA assigned: Castleman

This matter concerns the litigation filed by Roberta Crandall on behalf of the Estate of Gary Martin, arising from an incident in which a San Diego Police Officer used deadly force during the course of an arrest. In closed session, the City Manager and the City Attorney will report on the status of the litigation and the settlement demand made by the Plaintiff's attorney.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:50 p.m. – 2:51 p.m.)

Mayor Murphy closed the hearing.

CS-5 *Conde v. City of San Diego et al*
San Diego Superior Court No. GIC 834467

REFERRED TO CLOSED SESSION ON MONDAY, OCTOBER 4, 2004

HDCA assigned: Girard

This matter is litigation concerning the District 4 vacancy and the application of term limits to former City Council Member George Stevens. While the City prevailed on the issue of the date for the special election, the applicability of term limits to Mr. Stevens is now at issue. In closed session the City Attorney will brief the City Council on recent developments in the case.

Closed Session Comment 1:

John Stump stated that he was representing a resident in District 4. He urged for the allowance of the voters in District 4 to choose the candidates in the November election for the 4th Council District. Mr. Stump requested that this be discussed in open session.

FILE LOCATION: AGENDA

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

Mayor Murphy closed the hearing.

Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code section 54956.9(c):

CS-6 *Mission Valley Terminal*

REFERRED TO CLOSED SESSION ON MONDAY, OCTOBER 4, 2004

HDCA assigned: Devaney

This is a matter in which the City is contemplating litigation against the parties responsible for the release of petroleum products at the Mission Valley Terminal near Qualcomm Stadium. In Closed Session, the City Attorney and City Manager will advise the City Council of the status of negotiations with the responsible parties and propose a settlement with one of them.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:50 p.m. – 2:51 p.m.)

Mayor Murphy closed the hearing.

CS-7 *Hazard Center Drive*

REFERRED TO CLOSED SESSION ON MONDAY, OCTOBER 4, 2004

DCA assigned: Lanzafame

The City Attorney has been asked to evaluate the legal options available to the City of San Diego regarding the construction of the Westerly extension of Hazard Center Drive

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:50 p.m. – 2:51 p.m.)

Mayor Murphy closed the hearing.

* ITEM-50: Pacific Highlands Ranch, Units 17-22A.

(Pacific Highlands Ranch, Subarea III Community Plan Area. District-1.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/21/2004, Item 334, Subitem A. (Council voted 8-0. Councilmember District 4-vacant):

(O-2005-34) ADOPTED AS ORDINANCE O-19319 (New Series)

Authorizing the City Manager to execute a first amendment to Pacific Highlands Ranch Subarea III NCFUA Fire Facility Site Purchase Agreement.

NOTE: 6 votes required.

FILE LOCATION: LUP-Pacific Highlands Ranch, Units 17-22A, 9/12/04 (65)

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:20 p.m.)

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

* ITEM-100: First Amendment to Lease Agreement with State of California, Department of Parks and Recreation for the San Pasqual Battlefield State Historic Park.

(San Pasqual Valley Community Area. District-5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-318) ADOPTED AS RESOLUTION R-299707

Authorizing the City Manager, or designee, to execute the First Amendment to Lease with the State of California, Department of Park and Recreation, to add approximately nine acres to the existing leasehold for the San Pasqual Battlefield State Historic Park, under the terms and conditions set forth in that certain First Amendment to Lease.

CITY MANAGER SUPPORTING INFORMATION:

In 1978 the State of California, Department of Park and Recreation, entered into a 55 year lease agreement with the City of San Diego to develop and operate the San Pasqual Battlefield State Historic Park. This lease area is approximately 47.7 acres and is adjacent and to the west of the additional approximately nine acres which is the subject of this First Amendment to Lease. The original acreage improvements include a visitor's center, depicting the colorful history of San Pasqual Valley, restrooms, picnic facilities, hiking trails and parking area.

This First Amendment to Lease of approximately nine acres was once leased to the San Pasqual Union School District and improvements on the nine acre site include classroom facilities, playground equipment, bus barn and a keepers house. The improvements will be used by the State in conjunction with San Diego Archaeological Center to preserve and curate prehistoric and historic archaeological artifacts and to promote the educational, cultural and scientific use of the collection. Also located on this nine acre parcel is the existing ancestral cemetery for the San Pasqual Band of Indians and original inhabitants of the valley. The San Pasqual Band of Indians has requested the support of the State to help protect the ancestral cemetery and this will be accomplished, in part, with the State Ranger occupancy of the keepers house. The nine acre area is outside the Multi Habitat Planning Area (MHPA) for the valley, as well as outside the Agricultural Preserve. The San Pasqual Planning Group supports this action.

The City will receive a one time advance payment of \$48,000 for the approximately nine acres which represents the fair market rent for the remainder of the lease term with an expiration date of July 23, 2033. This takes into consideration the State responsibility for all maintenance of the improvements at the site. The total acreage of the lease after this Amendment to Lease will be approximately 56.7 acres.

FISCAL IMPACT:

A one time advance payment of \$48,000 deposited into Water Department Fund 41500.

Herring/Griffith/DCM

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:20 p.m.)

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

- * ITEM-101: Grant Application to First Five Commission of San Diego for the Library Design and Construction of Preschool Areas in College-Rolando, Logan Heights, Serra Mesa-Kearny Mesa, and Skyline Hills Branch Libraries.

(Skyline-Paradise Hills, Serra Mesa, Kearny Mesa, College Area, and Southeastern San Diego Community Areas. Districts-4, 6, 7, and 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-322) ADOPTED AS RESOLUTION R-299708

Authorizing the City Manager to make an application to the First Five Commission of San Diego for \$4,000,000 in grant funds (the Grant Funds) for library design and construction of preschool areas in College-Rolando, Logan Heights, Serra Mesa-Kearny Mesa and Skyline Hills branch libraries (the Projects);

Authorizing the City Manager to execute an agreement with the First Five Commission of San Diego in an amount not to exceed \$4,000,000 for the Projects under the terms and conditions set forth in the Grant Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of the Projects and the Agreement;

Authorizing the City Manager to conduct all negotiations, execute and submit all documents, and to take all necessary actions to secure funds from the First Five Commission of San Diego for the Projects;

Authorizing the City Auditor and Comptroller to accept and appropriate the Grant Funds in an amount not to exceed \$4,000,000, contingent upon receipt of the Grant Funds and a fully executed Grant Agreement;

Authorizing the City Auditor and Comptroller to establish a special interest-bearing account for the Grant Funds, in an amount not to exceed \$4,000,000;

Authorizing the City Auditor and Comptroller contingent upon the receipt of a fully executed Grant Agreement and the Grant Funds, to amend the Fiscal Year 2005 Capital Improvements Program Budget to increase each of the following CIP Budgets by an amount not to exceed \$1,000,000: CIP-35-071.0 College Rolando, CIP-35-101.0 Logan Heights, CIP-35-089.0 Serra Mesa-Kearny Mesa, and CIP-35-107.0 Skyline Hills branch libraries;

Authorizing the City Auditor and Comptroller to appropriate and expend \$1 million for each of the following CIP's: CIP-35-071.0 College Rolando, CIP-35-101.0 Logan Heights, CIP-35-089.0 Serra Mesa-Kearny Mesa, and CIP-35-107.0 Skyline Hills branch libraries, Fund 30244, for the purpose of design, construction, contingency, and related costs for the Projects, contingent upon receipt of a fully executed Grant Agreement, and contingent upon the City Auditor and Comptroller first furnishing one or more certificates certifying that funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

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

CITY MANAGER SUPPORTING INFORMATION:

On July 19, 2004, the First Five Commission of San Diego granted the San Diego Public Library an award for \$4 million to construct Preschooler's Door to Learning areas at four branch libraries: College-Rolando, Logan Heights, Serra Mesa-Kearny Mesa and Skyline Hills based upon an RFP submitted on March 17, 2004. Each branch will receive \$1 million towards their capital project for a total award of \$4 million. The branches were selected based upon the RFP criteria requiring a project to be under construction within two years of the funding award. Funds will be reimbursed to the four capital projects for expended funds based on First Five Commission criteria of eligible costs. Environmental review has been completed and approved for each of the library projects mentioned.

Constructing Preschooler's Door to Learning areas at the College/Rolando, Serra Mesa/Kearny Mesa, Logan Heights and Skyline Hills Branch libraries will promote school readiness from infancy, provide services for self-enrichment, and allow children to discover the pleasures of reading and learning.

The Preschooler's Door to Learning area is a designated portion of a library designed exclusively for children 0-5 years, their parents and caregivers. This area customarily houses the children's picture book collection but will be enhanced with additional equipment for children 0 to 5 years. It will include a Parenting-Teacher-Caregiver collection, computers with developmentally appropriate software, manipulative and adaptive toys, books and media specifically targeted for that age group, space for programs for infants, parents and toddlers, such as parenting workshops, and reading readiness programs that reinforce oral language, print awareness and phonological sensitivity that research has shown children need to succeed as readers.

The Preschooler's Door to Learning environment will encourage young children to develop a lifelong interest in reading and learning through services for children, and for parents, other adult caregivers, and children together.

FISCAL IMPACT:

\$4 million.

Herring/Tatar/ES

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:20 p.m.)

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

* ITEM-102: Two actions related to Agreement with Habitat West, Inc. for Design/Build Services for Los Peñasquitos North Wetland Creation Project.

(See memorandum from Scott Tulloch dated 9/15/2004. Los Peñasquitos Canyon Preserve Community Area. District-1.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2005-234) ADOPTED AS RESOLUTION R-299709

Authorizing the City Manager to execute an agreement with Habitat West, Inc., for design/build services in connection with Los Peñasquitos North Wetland Creation Project, under the terms and conditions set forth in the Design/Build Agreement;

Authorizing the expenditure of an amount not to exceed \$679,995 from Fund No. 41506, to provide funds for design, construction, and contingency for the above referenced Project.

Subitem-B: (R-2005-235) ADOPTED AS RESOLUTION R-299710

Declaring that the information contained in the Environmental Impact Report PTS No. 6020, including any comments received during the public review process, has been reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of Los Peñasquitos North Wetland Creation Project;

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

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 9/22/2004, NR&C voted 4 to 0 to approve. (Councilmembers Zucchet, Frye, Madaffer, and Inzunza voted yea. Councilmember District 4-vacant.)

SUPPORTING INFORMATION:

The Metropolitan Wastewater Department (MWW) regularly implements construction, repair, or maintenance activities in accordance with Council Policy 400-13 that require compensatory wetlands mitigation for impacts to jurisdictional wetlands. Timely mitigation of impacts associated with these activities is required under the California Environmental Quality Act (CEQA) and by regulatory agencies. The Los Peñasquitos North Wetland Creation Project is a Design/Build project that involves the creation of 3.8 acres of wetland habitat within the Los

Peñasquitos Canyon Preserve to mitigate for past and future impacts to wetlands within the Los Peñasquitos Creek Watershed. The conceptual design for this project has been presented to the Los Peñasquitos Community Advisory Committee and reviewed by the Development Services Department, the Planning Department Multiple Species Conservation Program, the Park and Recreation Department, and associated regulatory agencies.

In April 2004, a Request for Proposals (RFP) was sent to the three firms short listed during the Request for Qualifications (RFQ) process for As Needed Design/Build Habitat Restoration Projects. All three short listed firms submitted technical proposals on May 13, 2004. Two of the firms participated in the presentations and interviews and submitted price proposals on May 24, 2004. Based on review and evaluation of the technical proposals, presentations and price proposals, Habitat West, Inc. was determined to have the best evaluated price.

Award of the contract will allow Habitat West, and subconsultants Dudek and Associates, Inc. and Roberts Engineering, to complete design, construction, and maintenance of the Los Peñasquitos North Wetland Creation Project in accordance with the Project's Conceptual Plan prepared in January 2004.

FISCAL IMPACT:

The total estimated cost of this project is \$679,995 and is available in Fund 41506, Job Order 764072, Wetland Environmental Mitigation Projects.

Mendes/Tulloch/AKS

Aud. Cert. 2500124.

FILE LOCATION: CONT-HABITAT WEST, INC.

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:20 p.m.)

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

- * ITEM-103: Two actions related to Award of Design/Build Contracts for Mitigation and Restoration Projects.

(See memorandum from Scott Tulloch dated 9/15/2004. City Heights, Normal Heights, Navajo, Clairemont Mesa, and University Community Areas. Districts-1, 3, 6, and 7.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2005-324) ADOPTED AS RESOLUTION R-299711

Authorizing the City Manager to award a design/build contract for the I-15 and Adams Restoration Project to the firm offering the best value meeting the interest and objectives of the City in an amount not to exceed \$605,000, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Manager to award a design/build contract for the Group III Canyon Restoration Project to the firm offering the best value meeting the interest and objectives of the City in an amount not to exceed \$484,000, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Manager to award a design/build contract for the Lake Murray Mitigation Project to the firm offering the best value meeting the interest and objectives of the City in an amount not to exceed \$550,000, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$605,000 from Sewer Fund No. 41506, Job Order No. 764078, in support of the I-15 and Adams Restoration Project, solely and exclusively for the purpose of providing funds for this Project and related costs;

Authorizing the expenditure of an amount not to exceed \$484,000 from Sewer Fund No. 41506, Job Order No. 764078, in support of the Group III Canyon Restoration Project, solely and exclusively for the purpose of providing funds for this Project and related costs;

Authorizing the expenditure of an amount not to exceed \$550,000 from Sewer Fund No. 41506, Job Order No. 764077, in support of the Lake Murray Mitigation Project, solely and exclusively for the purpose of providing funds for this Project and related costs;

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

Subitem-B: (R-2005-326) ADOPTED AS RESOLUTION R-299712

Declaring that the information contained in Environmental Impact Report PTS No. 6020, including any comments received during the public review process, has been reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with the approval of the above referenced Project;

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

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 9/22/2004, NR&C voted 4 to 0 to approve. (Councilmembers Zucchet, Frye, Madaffer, and Inzunza voted yea. Council District 4-vacant.)

SUPPORTING INFORMATION:

The Metropolitan Wastewater Department (MWW) regularly implements construction, repair, or maintenance activities in accordance with Council Policy 400-13. The policy requires upland and wetland mitigation for impacts and timely restoration of impacts within canyons and other

environmentally sensitive areas in accordance with the Canyon Sewer Cleaning and Long-Term Sewer Maintenance Programmatic Environmental Impact Report (PEIR) and Master Permit approved July 15, 2004. MWWWD has proposed three Design/Build projects to meet these requirements.

The I-15 and Adams Canyon Access Restoration Project is a project to restore and revegetate access paths which were created during emergency cleaning and maintenance activities in Normal Heights Canyon. The estimated cost for this project is \$605,000. The Group III Canyon Restoration/Revegetation Project is to restore and revegetate access paths created during emergency cleaning and maintenance activities in Lower Rose Canyon, Sonico Canyon, and Isla Vista Canyon. The estimated cost for this project is \$484,000. The Lake Murray Mitigation Project is a project that involves the enhancement of wetland and upland habitat within Mission Trails Regional Park to mitigate for past and future impacts from the Lake Murray Emergency Sewer Maintenance and Repair Project, the Lake Murray Trunk Sewer Replacement and Long-Term Access Project, and from additional sewer repair projects within the San Diego River Watershed. The estimated cost for this project is \$550,000.

Requests for proposals for these projects were or will be requested from the prequalified firms on the Design/Build Habitat Restoration short list. Based upon review of the technical proposals, presentations and price proposals, for each project the firm offering the best value meeting the interests of the City and the project objectives will be selected. Award of the contracts will allow the selected firm(s) to complete design, construction, and maintenance of the projects.

FISCAL IMPACT:

The total not to exceed authorization is \$1,639,000. Funds in the amount of \$1,089,000 are available in Sewer Fund 41506, Dept. 776, Org 722, for the I-15/Adams and Canyon Group III projects. Funds in the amount of \$550,000 were encumbered in FY 2004 in Department Encumbrance 2410066 for the Lake Murray project for mitigation. The remaining Department Encumbrance balance will be used in future actions.

Mendes/Tulloch/AKS

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:20 p.m.)

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

- * ITEM-104: Grant Application to California Office of Traffic Safety for Airborne Intervention to Reduce Alcohol-Impaired Driving (“AIRAID”).

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-304) ADOPTED AS RESOLUTION R-299713

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

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

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

CITY MANAGER SUPPORTING INFORMATION:

The California Office of Traffic Safety (OTS) solicits grants for various traffic safety programs, particularly those designed to reduce drunk driving. SDPD has designed a program that will partner SDPD helicopter pilots in aerial observation of traffic, and communication with ground units, to identify, track, locate, and apprehend substance impaired drivers.

Impaired drivers are often easily more spotted from helicopters due to their erratic driving and disregard for traffic laws. Additionally, impaired drivers are often able to elude ground patrol. AIRAID will assist ground units in identifying impaired drivers who might otherwise not be detected, and in locating drivers who attempt to evade ground units.

As originally submitted, the proposal requested two Forward-Looking Infrared Cameras (FLIRs) with which to observe and photograph impaired drivers for use as evidence.

However, OTS eliminated the FLIRs and reduced the funding to approximately \$156,000 and will allow us to augment other smaller observation items. The revised grant program has not yet been finalized, but will consist primarily of pilot overtime, and equipment including Gyro-Stabilized Binoculars and helicopter operating costs. The goals of the program have not changed from the original proposal.

FISCAL IMPACT:

There is no requirement for matching funds, and no requirement to continue grant funded activities or expenditures after grant funds are exhausted or terminated. This grant will provide additional support to ground units in identifying, locating and apprehending impaired drivers. As such, it may result in savings related to costs collisions and injuries resulting from impaired drivers. Federal law requires that these funds supplement and not supplant funds otherwise available to law enforcement.

Ewell/Lansdowne/DJW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:20 p.m.)

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

* ITEM-105: Applying to HUD for a 108 Loan for the Golden Hill Community Center Project.

(See City Manager Report CMR-04-208. Greater Golden Hill Community Planning Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-302) ADOPTED AS RESOLUTION R-299714

Authorizing the City Manager, or designee, to apply to the Department of Housing and Urban Development (HUD) for a Section 108 loan not to exceed \$2.6 million, for the Golden Hill Community Center Project, an increase of \$570,000 over the loan amount that was authorized by the City Council on July 17, 2000;

Authorizing the City Manager to set forth the legal authority and certifications necessary for such an application and to execute and submit all documents related to the processing and funding of such a loan;

Authorizing the City Manager to accept and expend such funds, contingent upon receipt of an Auditor's Certificate verifying availability of the funds and execution of an agreement by and between the City and the Golden Hill Community Development Corporation;

Authorizing the City Manager to use Council District 8's future Community Development Block Grant (CDBG) entitlement grants to make loan repayments ranging between \$216,000 and \$225,000 (depending on the interest rates) per year over 20 years beginning no sooner than FY2006 as stated in City Manager Report;

Authorizing the City Manager to pledge and encumber the City's future annual CDBG entitlement grants and to encumber the property (land) as additional collateral if so required by HUD;

Authorizing the City Manager to amend the 2005 CDBG Action Plan to include the intended use of HUD 108 funds for the Golden Hill Community Center Project.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:20 p.m.)

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

* ITEM-106: Establishing a One-Hour Unmetered Time Limit Parking on El Cajon Boulevard.

(City Heights Community Area. District-7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-215 Cor. Copy) ADOPTED AS RESOLUTION R-299715

Establishing a one-hour unmetered time limit parking zone on the south side of El Cajon Boulevard between Winona Avenue and the alley east of 49th Street, San Diego, California, effective between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday, Sunday and certain holidays excepted, 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 street, and 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 one-hour unmetered time limit parking on the south side of El Cajon Boulevard between Winona Avenue and the alley east of 49th Street. The one-hour time limit zone will be effective from 8 AM to 6 PM, 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.

El Cajon Boulevard is a commercial street. The businesses expressed concern with parking of long durations impacting their businesses and requested time limit parking. They submitted a petition signed by 100% of the fronting businesses to initiate a parking study by the City. The parking duration study indicated that time limit parking is recommended. There are two existing green zones on this block. The affected businesses agreed to the replacement of the green zones by one-hour time limit parking. In addition, the City Heights Area Planning Committee supports this action.

FISCAL IMPACT:

\$450. Funds are available in the Street Division for this purpose.

Mendes/Boekamp/DVW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:20 p.m.)

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

* ITEM-107: Appointment to the La Jolla Shores Planned District Advisory Board.

(See memorandum from Mayor Murphy dated 9/21/2004, with resume attached; and memorandum from Councilmember Peters dated 9/20/2004.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-341) ADOPTED AS RESOLUTION R-299716

Council confirmation of the appointment by the Mayor of the City of San Diego, of Suzanne Weissman, to serve as a member of the La Jolla Shores Planned District Advisory Board, for a term expiring on April 1, 2006, to replace John Hucko, whose term has expired.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:20 p.m.)

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

* ITEM-108: San Diego City College 90th Anniversary Day.

MAYOR MURPHY'S AND COUNCILMEMBER ZUCCHET'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-346) ADOPTED AS RESOLUTION R-299717

Recognizing and commending the exceptional contributions that San Diego City College has made to the San Diego region;

Proclaiming September 24, 2004, to be "San Diego City College 90th Anniversary Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:20 p.m.)

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

* ITEM-109: Roger Cazares Day.

COUNCILMEMBER INZUNZA'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-333) ADOPTED AS RESOLUTION R-299718

Recognizing and appreciating the assistance of Roger Cazares;

Proclaiming October 2, 2004, to be "Roger Cazares Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:20 p.m.)

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

- * ITEM-110: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District-8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-1249) ADOPTED AS RESOLUTION R-299719

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L-State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:20 p.m.)

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

- * ITEM-111: Declaring a Continued State of Emergency Due to Economic Circumstances in the San Diego-Tijuana Border Region.

(District-8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-46) ADOPTED AS RESOLUTION R-299720

Declaring a Continued State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

FILE LOCATION: GEN'L-State of Emergency Due to Economic
Circumstances in the San Diego-Tijuana Border Region

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:20 p.m.)

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

* ITEM-112: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-109) ADOPTED AS RESOLUTION R-299721

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

CITY MANAGER SUPPORTING INFORMATION:

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

FILE LOCATION: GEN'L-Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV)

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:20 p.m.)

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

* ITEM-113: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-185) ADOPTED AS RESOLUTION R-299722

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L-State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:20 p.m.)

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

ITEM-200: Amending the San Diego Municipal Code relating to Regulating Alarm Systems.

(See City Manager Report CMR-04-157 Cor. Report.)

(Continued from the meeting of September 7, 2004, Item 56, at the request of Councilmember Zucchet, for further review.)

CITY MANAGER’S RECOMMENDATION:

Introduce the following ordinance:

(O-2004-151 Cor. Copy) INTRODUCED, TO BE ADOPTED ON
MONDAY, NOVEMBER 8, 2004

Introduction of an Ordinance amending Chapter 3, Article 3, Division 37 of the San Diego Municipal Code by repealing Sections 33.3700, 33.3706.1, 33.3706.2, and 33.3707.1; amending Sections 33.3701 through 33.3715; and adding Sections 33.3716 through 33.3723; relating to burglary, robbery, and emergency alarm systems.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:55 p.m. – 3:15 p.m.)

MOTION BY ATKINS TO INTRODUCE THIS ITEM WITH DIRECTION TO THE CITY MANAGER TO: 1) HAVE THE ALARM TASK FORCE CONTINUE TO MEET QUARTERLY; 2) DIRECT THE CITY ATTORNEY TO EXAMINE THE POSSIBILITY OF RECOVERING SOME OF THE COST INCURRED BY RESPONSES TO THE PRIVATE ENTITIES THAT ARE CONSIDERED EXEMPT; AND 3) REPORT BACK TO COUNCIL ON THE PROGRESS OF THESE EFFORTS IN THE NEXT SIX TO NINE MONTHS. Second by Frye. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-250: **Notice** of Pending Final Map Approval – California Terraces Unit No. 2A.

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 “California Terraces Unit No. 2A” (T.M. No. 99-0855), located southeasterly of I-805 and Ocean View Hills Parkway in the Otay Mesa Community Planning Area in Council District 8, a copy of which is available for public viewing at the

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

ITEM-S401: San Diego World Affairs Council Day.

COUNCILMEMBER MAIENSCHIEIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-361) ADOPTED AS RESOLUTION R-299723

Recognizing the outstanding dedication and service of the San Diego World Affairs Council to the people of San Diego;

Proclaiming October 4, 2004, to be "San Diego World Affairs Council Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:35 p.m. – 2:39 p.m.)

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

* ITEM-S402: Junior League of San Diego Day.

COUNCILMEMBER MAIENSCHIEIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-305) ADOPTED AS RESOLUTION R-299724

Recognizing the Junior League of San Diego for their extraordinary service to the people of San Diego;

Proclaiming October 8, 2004, to be “Junior League of San Diego Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:20 p.m.)

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

ITEM-S403: Amendments to the Covenants, Conditions, and Restrictions for the Ballpark Project and East Village Square.

(Downtown and East Village Community Areas. Districts-2 and 8.)

CITY ATTORNEY’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-360) ADOPTED AS RESOLUTION R-299725

Authorizing and directing the City Manager to execute certain Covenants, Conditions and Restrictions (CC&Rs);

Authorizing and directing the City Manager to take such other further actions, and negotiate, prepare and execute such documents, as may be necessary or appropriate to implement the intent and purposes of this resolution, the Ordinance, the MOU, the First Implementation Agreement, the Second Implementation Agreement, the Third Implementation Agreement or Fourth Implementation Agreement, consistent with the rights and obligations of the City pursuant to the Ordinance, MOU, Implementation Agreement, Second Implementation Agreement, Third Implementation Agreement, and Fourth Implementation Agreement, and their authorizing ordinances and resolutions.

SUPPORTING INFORMATION:

On January 31, 2000, by Resolution No. R-292700, the City Council approved Covenants, Conditions, and Restrictions (CC&Rs) governing the relationships between the owners of the Ballpark and the Outfield Park (the City and the Padres) and the parcels surrounding the project to be privately developed (now known as East Village Square). The CC&Rs were not executed at that time as the parties anticipated that revisions would be necessary depending upon the final configuration of East Village Square. The Redevelopment Agency did not approve the CC&Rs because it was not anticipated that the Agency would hold an ownership interest requiring execution of the CC&Rs.

Following the considerable debate and controversy surrounding the configuration of the Outfield Park and East Village Square, on August 5, 2003, the City Council adopted Resolution No. R-298312, and the Agency adopted Resolution No. RA-03668, which approved the Fourth Ballpark and Redevelopment Project Implementation Agreement, providing for modifications to the parcelization for both East Village Square and the Outfield Park.

On December 2, 2003, the City Council adopted Resolution No. R-298678 and the Agency adopted Resolution No. RA-03696 approving the East Village Square Master Plan, which provides explicit development regulations for East Village Square. Those parcel modifications and development regulations are being embodied in Disposition and Development Agreements for the various parcels in East Village Square surrounding the Outfield Park, but the parcel modifications and development regulations also required changes in the CC&Rs.

The necessary modifications to the CC&Rs have been negotiated and are concurrently before the City Council and Redevelopment Agency for approval. The modifications only implement the changes made to the configuration and development regulations of East Village Square and the Outfield Park as previously approved by the City Council and Redevelopment Agency, and are consistent with the rights and obligations of the City and Padres as set forth in the MOU for the Ballpark Project. Upon recordation, the CC&Rs will bind future owners even though the Agency's ownership interests will cease. With respect to the obligations of East Village Square parcel owners under the CC&Rs, no financial obligations of any kind are incurred by the City or Agency while the Agency is in ownership of a parcel.

Ewell/Girard

FILE LOCATION: MEET (64)

COUNCIL ACTION: (Time duration: 3:16 p.m. – 3:43 p.m.)

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

ITEM-S404: National Fire Prevention Week.

MAYOR MURPHY'S AND COUNCILMEMBER ZUCCHET'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-377) ADOPTED AS RESOLUTION R-299726

Declaring October 3 through 9, 2004, to be "National Fire Prevention Week" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:39 p.m. – 2:44 p.m.)

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

ITEM-S405: Rob Appel BRAVO San Diego Volunteer of the Year Day.

COUNCILMEMBER ZUCCHET'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-263 Cor. Copy) ADOPTED AS RESOLUTION R-299727

Declaring that the Council of the City of San Diego, for and on behalf of the Performing Arts and business communities of San Diego, does hereby recognize the exceptional contribution to the Arts that Rob Appel has devoted to BRAVO San Diego by helping to make it the premier Arts and Business event in San Diego;

Proclaiming October 4, 2004, to be “Rob Appel BRAVO San Diego Volunteer of the Year Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:50 p.m.)

MOTION BY ZUCCHET TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District Four-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 3:43 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 3:43 p.m.)