

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, NOVEMBER 22, 2004  
AT 2:00 P.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

**Table of Contents**

<u>CHRONOLOGY OF THE MEETING</u> .....	5
<u>ATTENDANCE DURING THE MEETING</u> .....	5
<u>ITEM-1: ROLL CALL</u> .....	6
<u>ITEM-10: INVOCATION</u> .....	6
<u>ITEM-20: PLEDGE OF ALLEGIANCE</u> .....	6
<u>ITEM-30: Approval of Council Minutes</u> .....	6
<b><u>CLOSED SESSION</u></b> .....	7
<u>* ITEM-50: Establishment and Exemption of Ethics Commission General Counsel Position</u> .....	10
<u>* ITEM-51: Communications Use Lease with the United States Department of Agriculture Forest Service, for the Lyons Peak Communications Site</u> .....	11
<u>* ITEM-52: Amendments to the Election Campaign Control Ordinance for the District 4 Special Election</u> .....	12
<u>* ITEM-53: Amending Permanent Rules of the Council by Amending San Diego Municipal Code Section 22.0101, Rule 6 and Rule 30, Relating to the Consent Agenda and Supplemental Items</u> .....	12
<u>* ITEM-54: Third Amended and Restated 1994 Agreement with the San Diego State University for Partial Use and Occupancy of Qualcomm Stadium</u> .....	13
<u>* ITEM-55: First Amendment to the Southcrest Redevelopment Plan for the Southcrest Redevelopment Project</u> .....	14
<u>* ITEM-56: Legacy Walk Rezone</u> .....	14
<u>* ITEM-57: Lease Agreement with YMCA of San Diego County for the Construction, Operation, and Maintenance of a YMCA in Scripps Ranch</u> .....	15

**Minutes of the Council of Monday, November 22, 2004**  
**Table of Contents (Continued)**

* ITEM-58:	<u>Amending the San Diego Municipal Code on the Issuance of Use and Occupancy Permits.....</u>	17
* ITEM-60:	<u>Fourth Update to the Land Development Code.....</u>	19
* ITEM-100:	<u>Approving Change Order No. 1 for the Underground Storage Tank.....</u>	22
* ITEM-101:	<u>Transfer of Funds for the Replacement of 5998 Camino De La Costa Storm Drain.....</u>	23
* ITEM-102:	<u>Authorizing Expenditure of Funds for the Acquisition of Easement Rights for the Bonita Pipeline, Phase II Project.....</u>	25
* ITEM-103:	<u>Authorizing Expenditure of Funds for the Garfield Elementary School.....</u>	27
* ITEM-104:	<u>Accepting a Donation from Black Mountain Ranch, LLC, for a Survey and Management Plan for Black Mountain Open Space Park Cultural and Historical Resources.....</u>	28
ITEM-105:	<u>Agreement with Hawkins, Delafield and Wood, LLP, for Bond and Disclosure Counsel Services for Pension Obligation Bonds.....</u>	30
* ITEM-106:	<u>First Amendment to Consultant Agreement with Schmidt Design Group, Inc. for Additional Professional Design Services for Carmel Valley Community Park South.....</u>	30
* ITEM-107:	<u>Scripps Memorial Hospital La Jolla Day.....</u>	32
* ITEM-108:	<u>Taiwanese Chamber of Commerce of San Diego Day.....</u>	32
* ITEM-109:	<u>San Diego State University School in the Park Day.....</u>	33
* ITEM-110:	<u>Charlotte Nielsen Day.....</u>	34
* ITEM-111:	<u>Cathy Hemphill Day.....</u>	34
* ITEM-112:	<u>Rev. Reginald Gary Day.....</u>	35
* ITEM-113:	<u>Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.....</u>	35

**Minutes of the Council of Monday, November 22, 2004**  
**Table of Contents (Continued)**

* ITEM-114:	<u>Declaring a Continued State of Emergency Due to Economic Circumstances in the San Diego-Tijuana Border Region.....</u>	36
* ITEM-115:	<u>Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).....</u>	37
* ITEM-116:	<u>Declaring a Continued State of Emergency Due to Severe Shortage of Affordable.....</u>	38
ITEM-200:	<u>Amending the San Diego Municipal Code Relating to the City’s Comprehensive Annual Financial Report.....</u>	38
ITEM-201:	<u>Two actions related to Amending the San Diego Municipal Code Relating to Parking Meter Rates; and Authorizing the City Manager to Establish Downtown Parking Pilot Program.....</u>	39
ITEM-202:	<u>City Treasurer’s Investment Policy and Delegation of Authority.....</u>	41
ITEM-250:	<u>Notice of Pending Final Map Approval – City View Condominiums.....</u>	42
ITEM-251:	<u>Notice of Pending Final Map Approval – Felton Heights.....</u>	43
ITEM-S400:	<u>Bob J. Resley Day.....</u>	44
ITEM-S401:	<u>Wells Fargo Day.....</u>	44
* ITEM-S402:	<u>Alan Nevin Day.....</u>	45
* ITEM-S403:	<u>San Diego Foundation for Change Changemaker Celebration Day.....</u>	45
* ITEM-S404:	<u>Appointment and Reappointment to the Housing Advisory and Appeals Board.....</u>	46
* ITEM-S405:	<u>Excusing Councilmember Peters from Attending the Council Meeting of November 15, 2004.....</u>	47
* ITEM-S406:	<u>Appointment to the Mission Bay Park Committee.....</u>	47
ITEM-S407:	<u>Two actions related to Status of Solid Waste Diversion Report and Construction/Demolition Material Recycling Policy.....</u>	48

<u>ITEM-S408:</u>	<u>Fifth Implementation Agreement to the Disposition and Development Agreement (DDA) and Related Documents – Las Americas Project.....</u>	<u>50</u>
<u>ITEM-S409:</u>	<u>Ninety Day Financial Disclosure Extensions for 21 Special Promotional Programs-Funded Organizations.....</u>	<u>54</u>
<u>ITEM-S410:</u>	<u>Cost Recovery Fee for Determination of Public Convenience or Necessity.....</u>	<u>56</u>
<u>ITEM-S411:</u>	<u>Appointment to the Sustainable Energy Advisory Board.....</u>	<u>57</u>
<u>ITEM-S412:</u>	<u>Appointment and Reappointment to the San Diego Convention Center Corporation Board of Directors.....</u>	<u>57</u>
<u>NON-DOCKET ITEMS.....</u>		<u>58</u>
<u>ADJOURNMENT.....</u>		<u>59</u>

**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Mayor Murphy at 2:13 p.m. Mayor Murphy recessed the meeting at 2:43 p.m. to convene the Redevelopment Agency. Mayor Murphy reconvened the meeting at 2:44 p.m. with Council Member Madaffer not present and District 4 vacant. Mayor Murphy recessed the meeting at 3:03 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:11 p.m. with Council Member Madaffer not present and District 4 vacant. Mayor Murphy recessed the meeting at 4:36 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 4:47 p.m. with Council Member Madaffer not present and District 4 vacant. Mayor Murphy adjourned the meeting at 5:00 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-present
- (3) Council Member Atkins-present
- (4) District 4-Vacant
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-Excused (By R-299945, no reason given)
- (8) Council Member Inzunza-present
- Clerk-Lane (ek)

FILE LOCATION:                      MINUTES

ITEM-1: ROLL CALL

Clerk Lane called the roll:

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

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Assistant City Clerk Joyce Lane.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Ralph Inzunza.

FILE LOCATION: MINUTES

ITEM-30: Approval of Council Minutes.

**TODAY'S ACTION IS:** APPROVED

Approval of Council Minutes for the meetings of:

11/01/2004 - Adjourned

11/02/2004 - Adjourned

FILE LOCATION: MINUTES

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

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

**CLOSED SESSION:**

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

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 23, 2004

**CS-1 *Nextel of California, Inc. v. City of San Diego*  
United States District Court Case No. 01cv2280LAB (BLM)**

DCA assigned: FitzGerald

This case involves a federal lawsuit by Nextel of California seeking to force the City to allow an existing wireless communications facility (the Nextel-Murray Ridge Project) to continue to operate under an erroneously processed permit. In closed session, the City Attorney will advise the Mayor and City Council of the status of the matter and seek appropriate direction.

SPECIAL CLOSED SESSION PUBLIC TESTIMONY:

SPECIAL CLOSED SESSION COMMENT-1:

Comment by Mary Jean Johnson regarding Nextel's complying with City regulations.

FILE LOCATION: AGENDA

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

SPECIAL CLOSED SESSION COMMENT-2:

Comment by Mary L. Sisemore regarding the site of Nextel.

FILE LOCATION: AGENDA

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

SPECIAL CLOSED SESSION COMMENT-3:

Comment by Ewdora Carlson regarding the impact of Nextel's location.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:56 p.m. – 3:02 p.m.)

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:53 p.m. – 3:03 p.m.)

**CS-2 *Kuritsky, Flora and Morris v. City of San Diego, et al.*  
San Diego Superior Court Case No. GIC 816930**

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 23, 2004

DCA assigned: Jones

This is a personal injury case in which Plaintiff contends that she tripped and fell as a result of a dangerous condition of a City sidewalk in Balboa Park. In closed session, the City Attorney will advise the Mayor and City Council of the status of the matter and seek appropriate direction.

Mayor Murphy closed the hearing.



FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:52 p.m. – 2:52 p.m.)

**CS-3 *Border Business Park v. City of San Diego*  
Appellate Case No. D039225; SDSC Case No. GIC 692794  
*Otay Acquisitions v. City of San Diego*  
SDSC Case No. GIC 753247  
*National Enterprises, Inc. v. City of San Diego*  
SDSC Case Nos. GIC 791407; GIC 805465**

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 23, 2004

ACA assigned: Girard

These matters involve a variety of disputes between certain companies owned or controlled by Roque de la Fuente and the City of San Diego [City] regarding the Border Business Park in Otay Mesa. The Border Business Park case resulted in a jury verdict against the City which is now on appeal. The National Enterprises and Otay Acquisitions cases are currently awaiting trial in the Superior Court. In closed session, the City Attorney will report on the status of on-going settlement negotiations and request further direction regarding those negotiations.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:52 p.m. – 2:52 p.m.)

**CS-4 *League of Women Voters of San Diego, et al. v. Sally McPherson, et al.*  
San Diego Superior Court No. GIC 838890**

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 23, 2004

ACA assigned: Girard

This lawsuit was recently filed concerning the ballot count in the mayoral race. The City Clerk is named as a Real Party in Interest. In closed session, the City Attorney will brief the Council on the allegations in the complaint.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:52 p.m. – 2:52 p.m.)

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

**CS-5 Agency negotiators: Lamont Ewell, Cathy Lexin, Mike McGhee**

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

REFERRED TO CLOSED SESSION OF TUESDAY, NOVEMBER 23, 2004

HDCA assigned: Chris Morris

In closed session, the City's negotiating team will review with the City Council the City's anticipated position with respect to the upcoming meet and confer process. Topics to be discussed include, but are not limited to: 1) salaries and wages, 2) health benefit plans, 3) retirement benefits, including the recommendations from the Pension Reform Committee, and 4) Presidential Leave and Presidential Benefit for union presidents. The City Manager and staff will request instructions from the City Council as to those matters.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:53 p.m. – 2:53 p.m.)

\* ITEM-50: Establishment and Exemption of Ethics Commission General Counsel Position.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance, which was introduced on 11/8/2004, Item 54. (Council voted 8-0. Councilmember District-4 vacant):

(O-2005-51) ADOPTED AS ORDINANCE O-19325 (New Series)

Exempting the position of General Counsel for the Ethics Commission from the classified service.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

CONSENT MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-51: Communications Use Lease with the United States Department of Agriculture Forest Service, for the Lyons Peak Communications Site.

(San Diego County/Federal Land.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance, which was introduced on 11/8/2004, Item 55. (Council voted 8-0. Councilmember District-4 vacant):

(O-2005-53) ADOPTED AS ORDINANCE O-19326 (New Series)

Authorizing the City Manager to execute a Communications Use Lease with the United States Department of Agriculture, Forest Service, for the lease of a portion of Lyons Peak located in the Cleveland National Forest for a term of ten years, for no fee, under the terms and conditions set forth in the Communications Use Lease.

FILE LOCATION: LEAS-United States Department of Agriculture, Forest Service

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

CONSENT MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-52: Amendments to the Election Campaign Control Ordinance for the District 4 Special Election.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 11/8/2004, Item 200. (Council voted 8-0. Councilmember District 4-vacant):

(O-2005-56) ADOPTED AS ORDINANCE O-19327 (New Series)

Amending Ordinance O-19317, which repeals and re-enacts the City of San Diego Election Campaign Control Ordinance, to change its effective date from January 1, 2005 to January 5, 2005.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

CONSENT MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-53: Amending Permanent Rules of the Council by Amending San Diego Municipal Code Section 22.0101, Rule 6 and Rule 30, Relating to the Consent Agenda and Supplemental Items.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 11/8/2004, Item 201. (Council voted 8-0. Councilmember District 4-vacant):

(O-2005-50) ADOPTED AS ORDINANCE O-19328 (New Series)

Amending the Permanent Rules of the Council by amending San Diego Municipal Code Section 22.0101, Rule 6, relating to the Adoption Agenda, and Rule 30, relating to Supplemental Items.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

CONSENT MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-54: Third Amended and Restated 1994 Agreement with the San Diego State University for Partial Use and Occupancy of Qualcomm Stadium.

(District 6.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance, which was introduced on 11/9/2004, Item 336. (Council voted 8-0. Councilmember District 4-vacant):

(O-2005-42) ADOPTED AS ORDINANCE O-19329 (New Series)

Authorizing the City Manager to execute the Third Amended and Restated 1994 Agreement for Partial Use and Occupancy of Qualcomm Stadium between San Diego State University and the City of San Diego, under the terms and conditions set forth in the Agreement.

**NOTE:** 6 votes required pursuant to Section 99 of the City Charter.

FILE LOCATION: MEET (61)

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

CONSENT MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-55: First Amendment to the Southcrest Redevelopment Plan for the Southcrest Redevelopment Project.

(Southeastern San Diego Community Area. District 4.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 11/9/2004, Item 338, Subitem A. (Council voted 8-0. Councilmember District 4-vacant):

(O-2005-57) ADOPTED AS ORDINANCE O-19330 (New Series)

Approving and adopting the First Amendment to the Redevelopment Plan for the Southcrest Redevelopment Project.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

CONSENT MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-56: Legacy Walk Rezone.

(Southeastern San Diego Community Plan Area. District 4.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 11/9/2004, Item 339, Subitem-F.  
(Council voted 8-0. Councilmember District-4 vacant):

(O-2005-52) ADOPTED AS ORDINANCE O-19331 (New Series)

Rezoning a 4.4 acres, located on the east side of South 43<sup>rd</sup> Street, south of Logan Avenue, in the Southcrest Neighborhood, in the Southeastern Community Plan Area, in the City of San Diego, California, from the CT-2 Zone into the MF-1500 Zone, as defined by San Diego Municipal Code Section 103.1706.

FILE LOCATION: LUP-Legacy Walk 11/09/04 (65)

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

CONSENT MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-57: Lease Agreement with YMCA of San Diego County for the Construction, Operation, and Maintenance of a YMCA in Scripps Ranch.

(Scripps Ranch Community Area. District 5.)

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2005-66 Cor. Copy) INTRODUCED, TO BE ADOPTED TUESDAY,  
DECEMBER 7, 2004

Introduction of an Ordinance authorizing the City Manager to execute a 10-Year Lease Agreement with YMCA of San Diego County for the construction, operation, and maintenance of a YMCA facility in Scripps Ranch and authorizing the expenditure of \$425,000 for studies, design, and construction from certain developer find accounts.

**CITY MANAGER'S SUPPORTING INFORMATION:**

In April 2002, a 4.467 acre vacant parcel near the Scripps Ranch Marketplace was purchased for public recreational use by the City from Shea Homes Limited Partnership ("Shea") for \$1 million. The purchase was made pursuant to a Settlement and Release Agreement dated July 24, 2001, between Shea, Shea Properties and the City. To facilitate the commencement of the development project, community funds of \$425,000 from developer interest accounts have been earmarked for the development of recreational facilities in the Scripps Ranch community.

To better serve residents of the area, the YMCA of San Diego County has proposed entering into a lease for the property. The terms of the lease are as follows:

TERM: 10 years with one 25-year option to extend. If an agreement is reached on additional improvements, another 10-year option to extend will be added for a potential term of 45 years.

FEE: Annual administrative fee with an annual Consumer Price Index (CPI) adjustment. The fee for 2004 is \$2,621.

FUND ALLOCATIONS: City developer funds as follows - \$95,000 for a Marketing and Financial Impact Study and a Goal Feasibility Study; \$30,000 for the design of an interim use facility; and \$300,000 for the construction of an interim use facility. Results of the studies will assist in determining an interim use for the property.

USES: Construction, operation and maintenance of a YMCA facility for recreational, educational, health, social and cultural purposes.

SIZE: 4.467 acres.

The fair market value of the unimproved land was estimated by City staff as of September 30, 2004, to be in the range of \$4,500,000 to \$5,500,000.

**FISCAL IMPACT:**

\$2,621 per year, subject to annual CIP adjustments, will be deposited into the General Fund from lessee \$425,000 will be funded for studies and construction from Developer Account Nos. 392111, 392141, 392163, and 392102.

Herring/Griffith/CLY

Aud. Cert. 2500490.



FILE LOCATION: LEAS-YMCA of San Diego County

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

\* ITEM-58: Amending the San Diego Municipal Code on the Issuance of Use and Occupancy Permits.

(See memorandum from William Deloatch dated 9/27/2004; Resolutions 214066, 214067 and Ordinance O-2004-148.)

**TODAY'S ACTION IS:**

Introduce the following ordinance:

(O-2004-148) INTRODUCED, TO BE ADOPTED TUESDAY  
DECEMBER 7, 2004

Introduction of an Ordinance amending Chapter 2, Article 2, Division 15, of the San Diego Municipal Code by amending Section 22.1502, relating to the authority of the Director of the Park and Recreation Department to issue Use and Occupancy Permits.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 10/6/2004, NR&C voted 4 to 0 to move forward to the full City Council with direction to the City Manager to include a strikeout version of the 1975 permit and showing what work will be transferred to the City Manager. (Councilmembers Zucchet, Frye, Madaffer, and Inzunza voted yea. District 4-vacant.)

**SUPPORTING INFORMATION:**

Special Use and Preferential Use & Occupancy Permits are currently issued on an annual basis to social, civic, philanthropic, educational, or cultural clubs and organizations. The Special Use Permits are for the permittee's intermittent use of space, subject to availability. The Preferential Use Permits provide the permittee a more constant use and control of a particular location,

although there is still a requirement that the public not be wholly or permanently excluded from the premises. Many of the provisions of the two permits are the same.

From 1954-1966, the Park and Recreation Director executed Special Use and Preferential Use & Occupancy Permits. In 1967, Preferential Use permits were approved by Council while Special Use Permits continued to be approved by the Director. In 1975, the Council approved allowing the Director the authority to issue both types of permits, on a form approved by Council.

The forms approved by Council in 1975 are outdated. Over the years, different versions (unapproved) of the form approved by Council have made their way into the system. Without knowing specifically when this occurred, it can only be speculated that at some point, the form became obsolete and not realizing it was a Council-approved form, staff began making changes. One of the terms deleted over the years was the right to appeal to Council in the event a permit was terminated or denied. The 1975 form requires significant changes and it would be beneficial to all if there is the flexibility to make future changes as needed. Some of the changes currently needed are new non-discrimination language, indemnification language, a notification regarding appropriate political action, and a notification that all City third-party agreements must be complied with.

In addition, the Park and Recreation Department hired the consulting firm of Calderon, Jaham & Osborn (CJO) to study and to make recommendations specific to recreation council operations and governance. CJO observed that different recreation councils have developed into different roles and organizational structures and recommended that Special Use Permit revisions to more accurately reflect these changes be pursued; a committee of recreation council chairs and City staff (SOP Sub-Committee) has been formed to develop a new Special Use Permit acceptable to recreation councils and the City.

An amendment to the Municipal Code is proposed which would allow the Park and Recreation Director to execute the permits subject to the approval of the City Manager, instead of the current language, which makes the issuance subject to the approval of the Council. This change will allow for the form to be updated as needs dictate and through negotiation by the Park and Recreation Director and the permittee, without seeking Council approval of a form document. This authority would be consistent with the authority currently granted to the City Manager to execute leases of City property for periods of less than three years on terms he deems proper.

Loveland/Oppenheim/BD

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

\* ITEM-60: Fourth Update to the Land Development Code.

Matter of approving, conditionally approving, modifying or denying the Fourth Update to the Land Development Code and Local Coastal Program Amendment. The Fourth Update includes 7 policy issues, 17 consistency corrections, and 18 minor corrections involving Chapter 5, Article 9.5, Division 4; Chapter 6, Article 2, Divisions 1-3 and 7; Chapter 10, Article 3, Division 1; Chapter 11, Article 1, Division 1-3, 5; Chapter 11, Article 2, Divisions 3 and 5; Chapter 11, Article 3, Divisions 1 and 2; Chapter 12, Article 1, Division 3; Chapter 12, Article 5, Division 1; Chapter 12, Article 6, Divisions 3-5, and 7-9; Chapter 12, Article 7, Division 1; Chapter 12, Article 8, Division 1; Chapter 12, Article 9, Division 1, 2, 5, and 7; Chapter 13, Article 1, Division 2 and 4; Chapter 13, Article 2, Division 12; Chapter 14, Article 1, Division 10; Chapter 14, Article 2, Division 1, 3, 4, 5, 6, 8, and 12; Chapter 14, Article 3, Division 1; Chapter 14, Article 4, Division 2; Chapter 14, Article 6, Division 1 of the Land Development Code. (City-wide)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinances which were introduced on 11/9/2004, Item 330; and adopt the resolution in Subitem E. (Council voted 7-0. Councilmember Zucchet not present. Councilmember District 4-vacant):

Subitem-A: (O-2005-39 Cor. Copy) ADOPTED AS  
ORDINANCE O-19332 (New Series)

Amending Chapter 10, Article 3, Division 1, by amending Section 103.1703; amending Chapter 11, Article 1, Division 1, by amending Section 111.0105; amending Chapter 11, Article 1, Division 2, by repealing Section 111.0203; amending Chapter 11, Article 1, Division 2, Sections 111.0207 and 111.0208; amending Chapter 11, Article 2, Division 3, by amending Section 112.0304; amending Chapter 11, Article 2, Division 5, by amending Sections 112.0501 and 112.0506; amending Chapter 11, Article 3, Division 1, by amending Section 113.0103; amending Chapter 11, Article 3, Division 2, by adding Section 113.0231; amending Chapter 11, Article 3, Division 2 by amending Sections 113.0249 and 113.0252, and 113.0270, 113.0273, and 113.0276; amending Chapter 12, Article 1, Division 3, by amending Sections 121.0302,

121.0309, and 121.0312; amending Chapter 12, Article 5, Division 1, by amending Section 125.0120; amending Chapter 12, Article 6, Division 3, by amending Section 126.0303; amending Chapter 12, Article 6, Division 4, by amending Section 126.0402; amending Chapter 12, Article 6, Division 5, by amending Section 126.0502 and 126.0504; amending Chapter 12, Article 6, Division 7, by amending Section 126.0704; amending Chapter 12, Article 6, Division 8, by amending Section 126.0804; and amending Chapter 12, Article 6, Division 9, by repealing Sections 126.0901, 126.0902, 126.0903, 126.0904, 126.0905, 126.0906, and 126.0907; amending Chapter 12, Article 7, Division 1, by amending Sections 127.0104 and 127.0106; amending Chapter 12, Article 8, Division 1, by amending Sections 128.0103 and 128.0104; amending Chapter 12, Article 9, Division 1, by amending Sections 129.0104 and 129.0112; amending Chapter 12, Article 9, Division 2, by amending Section 129.0214; amending Chapter 12, Article 9, Division 5, by amending Section 129.0506; amending Chapter 12, Article 9, Division 7, by amending Sections 129.0702, 129.0703, 129.0710, and by adding Section 129.0715; amending Chapter 13, Article 1, Division 2, by amending Section 131.0231 and adding Section 131.0260; amending Chapter 13, Article 1, Division 4, by amending Sections 131.0443, 131.0444, 131.0461, 131.0464, and by adding Section 131.0466; amending Chapter 13, Article 1, Division 5, by amending Section 131.0540; amending Chapter 13, Article 2, Division 12, by amending Section 132.1202; amending Chapter 14, Article 1, Division 10, by amending Section 141.1004; amending Chapter 14, Article 2, Division 1, by adding Section 142.0150; amending Chapter 14, Article 2, Division 3, by amending Section 142.0340; amending Chapter 14, Article 2, Division 4, by amending Section 142.0402; amending Chapter 14, Article 2, Division 5, by amending Section 142.0560; amending Chapter 14, Article 2, Division 6, by adding Section 142.0607; amending Chapter 14, Article 2, Division 6, by amending Sections 142.0611 and 142.0670; amending Chapter 14, Article 2, Division 8, by amending Section 142.0810; amending Chapter 14, Article 2, Division 12, by amending Section 142.1240; amending Chapter 14, Article 3, Division 1, by amending Sections 143.0110, 143.0111, 143.0126, 143.0140, 143.0142; and 143.0144; amending Chapter 14, Article 3, Division 3, by amending 143.0302; amending Chapter 14, Article 4, Division 2, by amending Section 144.0231; amending Chapter 14, Article 4, Division 2, by adding Section 144.0233; and amending Chapter 14, Article 6, Division 1, by amending Section 146.0106, all relating to Fourth Update of the Land Development Code.

Subitem-B: (O-2005-39a) (Option 1) ADOPTED AS ORDINANCE  
O-19333 (New Series)

Amending Chapter 14, Article 3, Division 1, of the San Diego Municipal Code, by amending Section 143.0110 relating to the Land Development Code.

Subitem-C: (O-2005-44) ADOPTED AS ORDINANCE O-19334 (New Series)

Amending Chapter 5, Article 9.5, Division 4, of the San Diego Municipal Code by amending Section 59.5.0401, pertaining to noise and abatement control; by amending Chapter 6, Article 2, Divisions 1 through 3 by repealing Divisions 1-3; and by amending Chapter 6, Article 2, Division 7, by amending and renumbering Section 62.07 to 62.0701, and adding Section 62.0702, pertaining to public rights-of way and land development.

Subitem-D: (O-2005-27) ADOPTED AS ORDINANCE O-19335 (New Series)

Amending Chapter 6, Article 2, Division 2, of the San Diego Municipal Code by amending and renumbering Section 62.0208 to Section 142.0680, all relating to Cost Reimbursement Districts.

Subitem-E: (R-2005-512) ADOPTED AS RESOLUTION R-299851

Adoption of a Resolution certifying that the information contained in Addendum to Environmental Impact Report LDR-42-1548, has been completed in compliance with the California Environmental Quality Act of 1970, as amended, and State guidelines, that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by the Council in connection with the approval of the amendments to the Land Development Code and Chapters Five and Six of the Municipal Code;

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 this project.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

CONSENT MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCES IN SUBITEMS A, B, C, D, AND ADOPT THE RESOLUTION IN SUBITEM E. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-100: Approving Change Order No. 1 for the Underground Storage Tank.

(Mission Bay Community Area. District 2.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-511) ADOPTED AS RESOLUTION R-299852

Authorizing and directing the City Auditor and Comptroller in accordance with the 2005 Annual Appropriation Ordinance to amend the Fiscal Year 2005 Capital Improvement Program budget to increase CIP-33-084.0, Underground Hazardous Materials Storage Tanks, Fund No. 630221, Contributions from the General Fund, by the amount of \$13,336.99;

Authorizing the City Auditor and Comptroller to transfer the amount of \$13,336.99 from Fire-Rescue Department, General Fund No. 100, to Fund No. 630221, Contributions from the General Fund;

Approving Change Order No. 1, dated October 12, 2004, issued in connection with the contract between the City and Silverton General, Inc., for fuel system upgrades at the City's Lifeguard Headquarters, together with the changes therein set forth, amounting to a net increase in the contract price of \$13,336.99;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$13,336.99 from CIP-33-084.0, Underground Hazardous Materials Storage Tanks, solely and exclusively to provide funds for Change Order No. 1 to the construction contract with Silverton General, Inc., for upgrades to the fuel system at the City's Lifeguard Headquarters.

**CITY MANAGER SUPPORTING INFORMATION:**

The proposed resolution will transfer, appropriate and authorize the expenditure of \$13,336.99 for the purpose of underground storage tank removal and aboveground storage tank installation at the City's Lifeguard Headquarters, 2581 Quivira Court. The resolution will transfer \$13,336.99 from Fund 630221, Contributions from the General Fund into the Underground Hazardous Materials Storage Tanks CIP-33-084.0, Fund 30244, CIP Construction Fund.

**FISCAL IMPACT:**

Funds are to be transferred in the amount of \$13,336.99 from Fund 630221 into CIP-33-084.0, Underground Hazardous Materials Storage Tanks, Fund 41201. Funds will be expended from CIP-33-084.0 in an amount not to exceed \$13,336.99.

Mendes/Heap/CH

Aud. Cert. 2500467.

FILE LOCATION: CONT-Silverton General, Inc.

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

\* ITEM-101: Transfer of Funds for the Replacement of 5998 Camino De La Costa Storm Drain.  
(La Jolla Community Area. District 1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-515) ADOPTED AS RESOLUTION R-299853

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$75,000 from Fund No. 41506, Sewer Revenue Fund to CIP-52-338.8, 5998

Camino de la Costa Storm Drain Replacement, and authorizing the expenditure of said funds, solely and exclusively, for the purpose of providing funds for the 5998 Camino De La Costa Storm Drain Replacement;

Authorizing the City Auditor and Comptroller to transfer the amount of \$75,000 from CIP-13-005.0, Emergency Drainage Projects to CIP-52-338.8, 5998 Camino De La Costa Storm Drain Replacement, and authorizing the expenditure of said funds, solely and exclusively, for the purpose of providing funds for the 5998 Camino De La Costa Storm Drain Replacement;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$150,000 from CIP-52-338.8, 5998 Camino De La Costa Storm Drain Replacement, solely and exclusively to provide funds for the 5998 Camino de La Costa Storm Drain Replacement project, contingent upon the City Auditor and Comptroller first furnishing a certificate certifying that funds are, or will be available, noting that this action does not constitute a decision to proceed with the construction of the project as recommended and further does not foreclose the analysis of alternatives or mitigation measures that would ordinarily be a part of environmental of permit review;

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

**CITY MANAGER SUPPORTING INFORMATION:**

Relatively rapid marine erosion of sea caves has undermined the end of street improvements, including the existing 18-inch storm drain pipe, at 5998 Camino De La Costa. What is left of the existing storm drain pipe is badly corroded and its function is compromised.

The proposed project will restore the storm drain pipe and prevent any impact to the nearby existing underground sewer pump station # 20 and other existing facilities. Staff prepared the construction documents, including plans and specifications, to advertise and bid the project for construction once all permits are secured. These construction drawings are being reviewed by the Development Services Department as part of the site development permit and environmental review processes. This project is located along the beach area. Therefore, no construction work will be scheduled during the beach summer moratorium. The project was partially funded with an allocation from CAPITAL OUTLAY and TOT Coastal Infrastructure and Facilities (Fund 1022320). An additional \$150,000 is needed to complete project funding.



**FISCAL IMPACT:**

\$75,000 is available in Sewer revenue fund 41506, and \$75,000 is available in CIP-13-005.0, Emergency Drainage Projects, Annual Allocation.

Mendes/Boekamp/Zoumaras

Aud. Cert. 2500460.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

\* ITEM-102: Authorizing Expenditure of Funds for the Acquisition of Easement Rights for the Bonita Pipeline, Phase II Project.

(Southeastern Community Area. District 4.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-460) ADOPTED AS RESOLUTION R-299854

Authorizing the City Manager to expend an amount not to exceed \$20,000 from CIP-70-920.0, Bonita Pipeline Phase II (Fund No. 41500), for the acquisition of easement rights for the future maintenance of telemetry control equipment, and for appraisal services, title fees, City staff labor charges, and miscellaneous costs of acquisition, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for such expenditures are on deposit in the City Treasury;

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

**CITY MANAGER SUPPORTING INFORMATION:**

As part of the Bonita Pipeline Phase II Project, new 30" water mains were installed in the Imperial Avenue right-of-way, and a water pressure metering vault was installed within YMCA Way (formerly 45th Street), to regulate pressure within the water distribution system. For remote control of this metering vault, a power pedestal, telemetry cabinet, and antennae were installed on the private property located southwest of Imperial Avenue and YMCA Way. This remote control equipment was installed on the merits of a Permit, granted by the property owners, which allowed project construction to proceed on schedule, while the necessary right-of-way drawing and corresponding legal description were completed, the property rights were appraised, and the easement document was drafted and processed for signatures. Construction has been completed, and the City's fair market value offer has been accepted by the owners, signified by their signing of the easement document.

This action will authorize the expenditure of an amount not to exceed \$20,000 from Water Fund 41500, CIP-70-920.0 (Bonita Pipeline Phase II), for the acquisition of the required easement rights. Further, this action will authorize the City Auditor, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

**FISCAL IMPACT:**

Funds in the amount of \$20,000 are available in Fund 41500, CIP-70-920.0, Bonita Pipeline Phase II.

Herring/Griffith/SLG

Aud. Cert. 2500449.

FILE LOCATION: DEED F-9851

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

\* ITEM-103: Authorizing Expenditure of Funds for the Garfield Elementary School Joint Use – Irrigation Pump.

(Greater North Park Community Area. District 3.)

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-503) ADOPTED AS RESOLUTION R-299855

Amending the Fiscal Year 2005 Capital Improvements Program Budget in CIP-29-422.0, Garfield Elementary School Joint Use Facility Phase I, Fund No. 39095, Park-Northeast Special Park Fees, by increasing the budget amount by \$10,000;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$10,000 from CIP-29-422.0, Garfield Elementary School Joint Use Facility Phase I, Fund No. 39095, Park-Northeast Special Park Fees, for the purpose of installing an irrigation pump.

**CITY MANAGER SUPPORTING INFORMATION:**

Garfield Elementary School is located at 4487 Oregon Street, San Diego, California 92103, in the Greater North Park Community. The original capital improvement project provided for the design and construction of an approximately 0.75 acre turfed joint use field. When the irrigation system was designed, the water pressure was marginally adequate to irrigate the field in a timely and efficient manner. Although the field can be irrigated, an irrigation pump is needed to boost the pressure for optimal irrigation coverage in order to maintain the joint use turfed field at a level acceptable to the City, the School District and the community.

On July 9, 2004, four bids were received for implementation of the irrigation pump. All bids for the irrigation pump were higher than the available funding remaining in the original capital improvement project. Additional funding has been identified to enable awarding a construction contract to the lowest bidder for an irrigation pump at this joint use field.

**FISCAL IMPACT:**

Funds in the amount of \$10,000 are available from Park - Northeast Special Park Fees, Fund No. 39095, for this purpose.

Herring/Oppenheim/AP

Aud. Cert. 2500448.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

- \* ITEM-104: Accepting a Donation from Black Mountain Ranch, LLC, for a Survey and Management Plan for Black Mountain Open Space Park Cultural and Historical Resources.

(Black Mountain Ranch and Rancho Penasquitos Community Area. District 1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-176) ADOPTED AS RESOLUTION R-299856

Approving the acceptance by the City Manager of a \$100,000 donation from Black Mountain Ranch, LLC, to be used for the development of Black Mountain Open Space Park Cultural and Historical Resources Survey and Management Plan;

Authorizing the addition of CIP-29-862.0, Black Mountain Open Space Park, to the Fiscal Year 2005 Capital Improvements Program;

Authorizing an increase in the Fiscal Year 2005 Capital Improvements Program Budget in CIP-29-862.0, Black Mountain Open Space Park, Fund No. 10702, Black Mountain Ranch Developer Contribution;

Authorizing the City Auditor and Comptroller to appropriate and expend \$100,000 from CIP-29-862.0, Black Mountain Open Space Park, Fund No.

10702, Black Mountain Ranch Developer Contribution, for preparation of a cultural and historical resources survey and management plan.

**CITY MANAGER SUPPORTING INFORMATION:**

The purpose of this request for Council action is to establish a capital improvements project for the study of cultural resources in Black Mountain Open Space Park. Funding for this project is from a donation that is the result of a private agreement between Black Mountain Ranch, LLC and the Sierra Club to which the City is not a party. The use of the donation for this purpose has been approved by Mr. Duane M. Danielsen, Vice President, Black Mountain Ranch, LLC. The donation (\$100,000) will be used to prepare the Black Mountain Open Space Park Cultural and Historical Resources Survey and Management Plan (Study), as described in the Project Description, Consultant Qualifications and Draft Scope of Work.

The Summary Timeline and Preliminary Cost Estimate, describe the potential project phases and costs. The Study will be used to guide City staff and interested members of the public in the management and interpretation of the park's important cultural and historical resources.

**FISCAL IMPACT:**

Funding for this project (\$100,000) is available from Fund No. 10702, Black Mountain Ranch Developer Contribution. The use of these funds will include staff and administrative costs as well as fees for professional consultant services.

Herring/Oppenheim/AP

Aud. Cert. 2500426.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

ITEM-105: Agreement with Hawkins, Delafield and Wood, LLP, for Bond and Disclosure Counsel Services for Pension Obligation Bonds.

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-201) TRAILED TO TUESDAY, NOVEMBER 23, 2004 DUE TO LACK OF TIME

Authorizing the City Manager to execute an agreement with Hawkins, Delafield and Wood, LLP, for bond and disclosure counsel services for Pension Obligation Bonds, in an amount not to exceed \$175,000, under the terms and conditions set forth in the Agreement, contingent upon the City Auditor and Comptroller first furnishing a certificate certifying that funds are available.

**SUPPORTING INFORMATION:**

The City is contemplating the issuance of pension obligation bonds (Bonds) in early 2005 to reduce the City's outstanding pension Unfunded Accrued Liability (UAAL). It is in the best interest of the City to retain Hawkins, Delafield and Wood, LLP (Firm) to provide bond and disclosure counsel service in connection with the Bonds. The Firm proposed to provide such services for an hourly rate in connection with the Bonds for a maximum amount not to exceed \$175,000. Such fees are contingent on the Bonds being sold and shall be paid from the proceeds of the Bonds. The City has determined to accept the firm's proposal and retain it as bond and disclosure counsel for the Bonds.

Noone/RD

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:57 p.m. – 4:57 p.m.)

\* ITEM-106: First Amendment to Consultant Agreement with Schmidt Design Group, Inc. for Additional Professional Design Services for Carmel Valley Community Park South.

(Carmel Valley Community Area. District 1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-376) ADOPTED AS RESOLUTION R-299857

Authorizing the City Manager to execute an agreement with Schmidt Design Group, Inc., for additional professional design services in CIP-29-764.0, Carmel Valley Community Park South (Project), in the amount of \$261,605, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$261,605 from CIP-29-764.0, Carmel Valley Community Park South, for the purpose of providing funds for the above-referenced Project.

**CITY MANAGER SUPPORTING INFORMATION:**

The original Agreement between the City and Schmidt Design Group, Inc. for professional design services provided for the development of the General Development Plan (GDP) for CIP-29-764.0, Carmel Valley Community Park South and was approved by the City Council on December 3, 2002, Resolution No. R-297406. The First Amendment to Agreement will increase the original scope of services to provide for the production of Contract Documents to secure public bids and assist the City through the public bidding and construction phases of the project.

**FISCAL IMPACT:**

On December 3, 2002, the City Council approved the Consultant Agreement between the City and Schmidt Design Group, Inc. for CIP-29-764.0, Carmel Valley Community Park South, Resolution No. R-297406 for the contract amount of \$170,744, Purchase Order No. 5054405-0, AC2300571, Carmel Valley South Facilities Benefit Assessment Fund, Fund Number 79008. The First Amendment to Agreement will revise the original scope of services and increase the original consulting fees by \$261,605 for a total amount of \$432,349. The additional consulting fees (\$261,605) shall be funded by the Carmel Valley South Facilities Benefit Assessment Fund, Fund No. 79008.

Herring/Oppenheim/Penera

Aud. Cert. 2500469.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

\* ITEM-107: Scripps Memorial Hospital La Jolla Day.

**COUNCILMEMBER PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-431) ADOPTED AS RESOLUTION R-299858

Recognizing the positive community care that Scripps Memorial Hospital La Jolla brings to the City of San Diego;

Proclaiming October 9, 2004, to be "Scripps Memorial Hospital La Jolla Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

\* ITEM-108: Taiwanese Chamber of Commerce of San Diego Day.

**COUNCILMEMBER PETERS' RECOMMENDATION:**

Adopt the following resolution:



(R-2005-514) ADOPTED AS RESOLUTION R-299859

Proclaiming October 21, 2004, to be “Taiwanese Chamber of Commerce of San Diego Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

\* ITEM-109: San Diego State University School in the Park Day.

**DEPUTY MAYOR ATKINS’ RECOMMENDATION:**

Adopt the following resolution:

(R-2005-542) ADOPTED AS RESOLUTION R-299860

Commending San Diego State University’s School in the Park program for its unparalleled commitment to improve the educational, cultural and intellectual experience of our youth by partnering with Balboa Park institutions to achieve this goal;

Proclaiming November 9, 2004, to be “San Diego State University School in the Park Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

\* ITEM-110: Charlotte Nielsen Day.

**DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-544) CONTINUED TO MONDAY, NOVEMBER 29, 2004

Commending Charlotte Nielsen for her commitment and dedication to improve and enhance Balboa Park through her volunteer and philanthropic efforts;

Proclaiming November 9, 2004, to be "Charlotte Nielsen Day" in the City of San Diego.

FILE LOCATION: AGENDA

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

CONSENT MOTION BY ATKINS TO CONTINUE TO MONDAY, NOVEMBER 29, 2004 IN ORDER FOR CHARLOTTE NIELSEN TO BE PRESENT . Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-111: Cathy Hemphill Day.

**DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-545) ADOPTED AS RESOLUTION R-299861

Commending Cathy Hemphill for her outstanding contributions to her community and congratulating her on the celebration of her 60<sup>th</sup> birthday;

Proclaiming October 27, 2004, to be 'Cathy Hemphill Day' in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

\* ITEM-112: Rev. Reginald Gary Day.

**DEPUTY MAYOR ATKINS' AND COUNCIL DISTRICT FOUR'S  
RECOMMENDATION:**

Adopt the following resolution:

(R-2005-543) ADOPTED AS RESOLUTION R-299862

Commending Rev. Reginald Gary for his dedication and service to his congregation at New Creation Church, and recognizing him for his lifelong commitment to his community and his faith;

Proclaiming November 14, 2004, to be "Rev. Reginald Gary Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

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

(District-8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-404) ADOPTED AS RESOLUTION R-299863

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: 2:17 p.m. – 2:23 p.m.)

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

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

(District-8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-275) ADOPTED AS RESOLUTION R-299864

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: 2:17 p.m. – 2:23 p.m.)

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

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

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-277) ADOPTED AS RESOLUTION R-299865

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: 2:17 p.m. – 2:23 p.m.)

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

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

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-188) ADOPTED AS RESOLUTION R-299866

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: 2:17 p.m. – 2:23 p.m.)

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

ITEM-200: Amending the San Diego Municipal Code Relating to the City's Comprehensive Annual Financial Report.

**CITY ATTORNEY'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2005-55) INTRODUCED, TO BE ADOPTED  
TUESDAY, DECEMBER 7, 2004

Introduction of an Ordinance amending Chapter 2, Article 2, Division 7 of the San Diego Municipal Code to add New Section 22.0710 pertaining to the City's Comprehensive Annual Financial Report.

**SUPPORTING INFORMATION:**

On September 27, 2004, the City Council introduced an ordinance implementing the recommendations set forth in the Report on Investigation prepared by the law firm Vinson &

Elkins. As part of the motion, the City Council directed that the City Attorney return to the City Council with appropriate amendments to the Municipal Code to require a hearing before the City Council in open session regarding the City's Comprehensive Annual Financial Report (CAFR) upon its completion and transmittal, and requiring the City Auditor and Comptroller's Office to prepare all footnotes to the CAFR. Currently, there is no requirement for a hearing on the CAFR; the City Council receives a copy of the CAFR with a transmittal letter from the City Auditor and Comptroller. In addition, current accounting standards permit the preparation of footnotes to the CAFR (or any of the City's stand alone financial statements) by the City's outside auditor, although that practice is prohibited in the private sector. The proposed new Municipal Code Section would (a) require a hearing before the City Council on the CAFR within thirty (30) days of its completion and transmittal, with exceptions only for emergencies as reasonably determined by the Mayor (acting as the Rules Committee); and (b) require that the City Auditor and Comptroller's Office prepare all footnotes to the CAFR and stand alone financial statements, notwithstanding any rule or standard of accounting practice.

Gwinn/Girard

FILE LOCATION: NONE

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

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

ITEM-201: Two actions related to Amending the San Diego Municipal Code Relating to Parking Meter Rates; and Authorizing the City Manager to Establish Downtown Parking Pilot Program.

(See City Manager Report CMR-04-249. Centre City Community Area. District 2.)

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinance in Subitem-A and adopt the resolution in Subitem-B:

Subitem-A: (O-2005-64) INTRODUCED, TO BE ADOPTED  
TUESDAY, DECEMBER 7, 2004

Introduction of an Ordinance amending Chapter 8, Article 6, Division 11, of the San Diego Municipal Code by amending Section 86.11, relating to Parking Meter Rates.

Subitem-B: (R-2005-456) ADOPTED AS RESOLUTION R-299867

Authorizing the City Manager to establish a Downtown Parking Pilot Program;

Authorizing the City Manager, pursuant to the authority conferred by and in accordance with the provisions of Section 86.04 of the San Diego Municipal Code, to establish variable hours for on street parking from one hour to nine hours time limit, effective between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday, with Sundays and certain holidays excepted, in the Downtown Parking Pilot Program area.

**CITY MANAGER SUPPORTING INFORMATION:**

On March 24, 2004, the City Manager presented the recommendations of the Manager's Parking Task Force to the Land Use and Housing Committee (Manager's Report 04-214). The Land Use & Housing Committee (LU&H) accepted the report of the Parking Task Force and directed the City Manager to return to the Committee with an analysis of the recommendations. At that time, the Land Use & Housing Committee requested among other actions that the City Manager "convene formally or informally a special downtown parking advisory group to develop specific ideas to address downtown parking." This report addresses this specific request from LU&H and includes recommendations that have been made by the Downtown Parking Management Group.

The group was assisted by staff from the Engineering and Capital Projects, General Services, and the Community and Economic Development Departments. The Manager's Report (attachment 1) describes in detail the subject proposal. The subject proposal is to authorize the City Manager to implement changes for time limit parking and parking meter rates within a designated area (pilot area) and within the specified parameters as needed for a period of 18 months. The following groups support this request: Centre City Advisory Council, Parking, Traffic and Transportation Subcommittee; Centre City Advisory Council, Advisory Board; Centre City Development Corporation, Budget/Finance Committee; Centre City Development Corporation, Board Of Directors.

**FISCAL IMPACT:**

The fiscal impact of this action is described in the Manager's Report.

Mendes/Boekamp/DVW





California Government Code (CGC) has vested authority with the City Council to invest or to reinvest funds of the City or to sell or exchange securities purchased. Under CGC Section 53607, the City Council may delegate this authority to the City Treasurer for a period of one year. Prior to the enactment of this superceding legislation in 2002, the City Treasurer had the authority to invest the funds of the City under CGC Section 53635 and City Charter Section 45. The City Council now annually delegates this authority to the City Treasurer. City Council's Resolution 298624 adopted on November 24, 2003 was the last time the Council delegated this authority.

**FISCAL IMPACT:**

No fiscal impact.

Frazier/Vattimo/SM

FILE LOCATION: MEET

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

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

ITEM-250: **Notice** of Pending Final Map Approval – City View 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 "City View Condominiums" (T.M. No. 20380 PTS No. 40186), located northwesterly of University Avenue and 46<sup>th</sup> Street in the Mid-City: City Heights Community Plan 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-251: Notice of Pending Final Map Approval – Felton Heights.**

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 “Felton Heights” (T.M. No. 51190 PTS No. 47296), located northeasterly of El Cajon Blvd. and Felton Street in the Mid-City: Normal Heights Community Plan 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-S400: Bob J. Resley Day.

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-561) ADOPTED AS RESOLUTION R-299849

Recognizing Bob J. Resley for his many contributions and service to the San Diego community;

Proclaiming November 22, 2004, to be "Bob J. Resley Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:30 p.m.)

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

ITEM-S401: Wells Fargo Day.

**DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-548) ADOPTED AS RESOLUTION R-299850

Recognizing Wells Fargo for their long history of community giving and volunteerism, and commending them for their generosity in establishing a \$350,000 grant program for 75 social service agencies who serve low-to-moderate income communities in the City of San Diego;

Proclaiming November 22, 2004, to be "Wells Fargo Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:39 p.m.)

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

\* ITEM-S402: Alan Nevin Day.

**COUNCILMEMBER PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-546) ADOPTED AS RESOLUTION R-299869

Proclaiming the day of November 12, 2004, to be "Alan Nevin Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

\* ITEM-S403: San Diego Foundation for Change Changemaker Celebration Day.

**DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-560) ADOPTED AS RESOLUTION R-299870

Commending the board of directors, volunteers, and staff of San Diego Foundation for Change for their tireless leadership to support those groups and

individuals who are working in the most undeserved and disenfranchised communities in San Diego and Tijuana;

Proclaiming November 19, 2004, to be “San Diego Foundation for Change Changemaker Celebration Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

\* ITEM-S404: Appointment and Reappointment to the Housing Advisory and Appeals Board.

(See memorandum from Mayor Murphy dated 11/10/2004, with resumes attached.)

**MAYOR MURPHY’S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-541) ADOPTED AS RESOLUTION R-299871

Council confirmation of the following appointment and reappointment by the Mayor, to serve as members of the Housing Advisory and Appeals Board for terms ending August 1, 2006:

**REAPPOINTMENT:**

Jaime M. Barton

**APPOINTMENT:**

Stanwood C. Johnson (replacing Liliani Stiffler, whose term expired)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

\* ITEM-S405: Excusing Councilmember Peters from Attending the Council Meeting of November 15, 2004.

**COUNCILMEMBER PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-558) ADOPTED AS RESOLUTION R-299872

Excusing Councilmember Scott Peters from attending the regularly scheduled City Council Meeting of November 15, 2004, due to a family emergency.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

\* ITEM-S406: Appointment to the Mission Bay Park Committee.

(See memorandum from Mayor Murphy dated 11/10/2004, with resume attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-538) ADOPTED AS RESOLUTION R-299873

Council confirmation of the appointment by the Mayor of Mohsen Khaleghi to serve as a member of the Mission Bay Park Committee, replacing Wayne Blum and completing his term which ends on March 1, 2006, in the category of Lessee Hotel Representative.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

ITEM-S407: Two actions related to Status of Solid Waste Diversion Report and Construction/Demolition Material Recycling Policy.

(See City Manager Reports CMR-04-175 and CMR-04-176; and letter from Jim Ambroso dated 7/26/2004.)

(Continued from the meeting of November 15, 2004, Item 151, at the request of Councilmember Madaffer, for further review.)

**TODAY'S ACTIONS ARE:**

Adopt the following resolutions:

Subitem-A: (R-2005-437) ADOPTED AS RESOLUTION R-299886,  
WITH DIRECTION

Accepting the City Manager's Report No. 04-175 in connection with the City's Solid Waste Diversion Status.

Subitem-B: (R-2005-438) ADOPTED AS RESOLUTION R-299887,  
WITH DIRECTION

Establishing Council Policy pertaining to construction and demolition (C&D) material recycling as set forth in Exhibit A and as set forth in the Council Policy;



Instructing the City Clerk to assign a policy number and add the aforesaid to the Council Policy Manual.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 8/4/2004, NR&C voted 4 to 0 to accept the City Manager's Report No. 04-175 in connection with the City's Solid Waste Diversion Status; and approve the City Manager's recommendation to establish Council Policy pertaining to construction and demolition (C&D) material recycling as set forth in Exhibit A and as set forth in the Council Policy. (Councilmembers Lewis, Frye, Madaffer, and Inzunza voted yea. Councilmember Zucchet not present.)

**SUPPORTING INFORMATION:**

On August 4, 2004, the Natural Resources & Culture Committee reviewed the City Manager's Status of Solid Waste Diversion Report and Construction and Demolition Material Recycling Policy Report. The committee voted 4-0 to accept the Solid Waste Diversion Report and 4-0 to approve the Construction and Demolition Material Recycling Policy and to forward the policy to City Council for adoption.

The Construction and Demolition Material Recycling Policy was developed in consultation with industry and City Department stakeholders. ESD is working with the Building Industry Association (BIA), the Association of General Contractors (AGC) and other industry groups to develop the educational materials and outreach programs that will be used to implement the policy by the industry. ESD has also consulted with City Departments, including the Engineering & Capital Projects, Water, and General Services Departments, to assist them in preparing for implementation of the Policy. These Departments are working cooperatively with ESD to ensure that their construction and demolition activities and contracts are in compliance with the new policy.

**FISCAL IMPACT:**

There is no fiscal impact associated with the Solid Waste Diversion Report. The Construction and Demolition Material Recycling Policy will have no fiscal impact at this time however successful diversion of construction and demolition waste from Miramar Landfill could result in some reduction in annual tipping fee revenue. The benefit would be slower utilization of landfill space, potentially extending the life of the Miramar Landfill.

Mendes/Heap/JT

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:11 p.m. – 4:36 p.m.)

Motion by Peters to accept the City Manager's Report with direction that the City Manager return to the City Council as soon as possible after the institution of the construction and demolition facility in order to know how well the policy is working. Direct that a voluntary recycling program be created. Accept Council Member Frye's recommendation that the City Manager prepare an environmental analysis of the Council Policy. Second by Frye. Second withdrawn.

MOTION BY PETERS TO ADOPT, ACCEPT THE MANAGER'S REPORT AND ADOPT THE COUNCIL POLICY WITH DIRECTION THAT THE CITY MANAGER PREPARE AND BRING FORWARD A MANDATORY CONSTRUCTION AND DEMOLITION ORDINANCE, TO BE PRESENTED TO THE NATURAL RESOURCES AND CULTURE COMMITTEE BY JANUARY 2005. ACCEPT COUNCIL MEMBER FRYE'S REQUEST THAT THE PROPOSED ORDINANCE PRESENTED TO THE NR&C INCLUDE A SOLID-WASTE MANAGEMENT PLAN, ONE SIMILAR TO THAT BEING UTILIZED BY THE NAVY. Second by Frye. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

ITEM-S408: Fifth Implementation Agreement to the Disposition and Development Agreement (DDA) and Related Documents – Las Americas Project.

(See Redevelopment Agency Report RA-04-41/CMR-04-233. San Ysidro Community Area. District 8.)

(Continued from the meeting of November 15, 2004, Item S400, at the request of Councilmember Inzunza, for further review.)

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinance in Subitem A and adopt the resolutions in Subitems B, C, and D:

Subitem-A: (O-2005-58) INTRODUCED, TO BE ADOPTED  
TUESDAY, DECEMBER 7, 2004

Introduction of an Ordinance authorizing the City Manager to execute the amended and restated Second Amendment to the Public Use Lease Agreement (Parcel A-1) with International Gateway Associates, LLC.

Subitem-B: (R-2005-494) ADOPTED AS RESOLUTION R-299874

Approving: 1) amendment to Public Use Lease (Parcel B/C); 2) Second Amendment to overall Reciprocal Easement Agreement (REA); 3) subsequent Parcel A-1/Civic Parcel/Parcel A-3 REA; 4) Quitclaim Deed for Library Airspace Parcels; and 5) Grant Deed for Civic Parcel, all in conjunction with the Disposition and Development Agreement (DDA) with International Gateway Associates, LLC for the Las Americas Project;

Stating for the record that the Environmental Impact Report SCH No. 95-101015 (adopted April 2, 1996 by Council Resolution No. R-287149) and Mitigated Negative Declaration (adopted May 12, 1998 by Council Resolution No. R-290105) covering this activity has been reviewed and considered, and directing the City Clerk to file a Notice of Determination in accordance therewith.

Subitem-C: (R-2005-495) ADOPTED AS RESOLUTION 299875

Approving a Cooperation Agreement with the Redevelopment Agency of the City of San Diego for the Conveyance and Oversight of the Civic Parcel at the Las Americas site, within the San Ysidro Redevelopment Project Area.

Subitem-D: (R-2005-496) ADOPTED AS RESOLUTION R-299876

Initiating a Community Plan Amendment to make appropriate changes to the San Ysidro Community Plan in order to implement the Mi Pueblo Pilot Village in the San Ysidro Community Planning Area.

**CITY MANAGER SUPPORTING INFORMATION:**

The following is a summary of actions associated with this item:

**Amended and Restated Second Amendment to Public Use Lease (Parcel A-1)**

- The City had until 9/30/03 to acquire the funding to build a library on the second story above retail. Since the deadline has passed, the reversionary clause of the lease will be exercised, and the City will quitclaim the two airspace parcels back to the developer.
- Minor adjustment to the location of the Park and Ride facility.
- The lease payment schedule, which was adjusted with the Fourth Implementation Agreement, will revert back to the original schedule: Total Principal of \$6,306,000; annual payments of \$496,402 for 30 years with a 2-tier interest rate: \$1,145,000 at 10%;

\$5,161,000 at 6%. Annual payments expected to begin in approximately November 2006, once City has received the necessary sales tax revenue.

Grant Deed for Civic Parcel

- The developer will grant to the City an approximately 26,500 sf parcel valued at \$3.5 million for civic uses. Value based on the land, entitlements, perpetual Common Area Maintenance relief and an easement for 134 parking spaces.
- The City has 84 months to either build on the property or sell it; at the end of 84 months, the developer may repurchase the property for \$1.25 million plus an annual inflation factor.

Second Amendment to Overall Reciprocal Easement Agreement

- Allocates rights and obligations of three parcels including the Civic Parcel, giving the City all the benefits of being in the integrated development without having to bear its proportionate share of the obligations.
- Assures that users on neighboring parcels cannot object to the development of a civic building on the Civic Parcel nor to a residential development on Parcel A-3.

Subsequent Parcel A-1/Civic Parcel/Parcel A-3 Reciprocal Easement Agreement

- Provides Civic Parcel with access to Las Americas Shopping Center common areas, maintenance of streetscape and landscape surrounding the Civic Parcel building, a parking easement for 134 parking spaces and restrictions on the uses permitted within the Civic Parcel.
- Developer absorbs the Civic Parcel's share of Common Area Maintenance fees in perpetuity.
- Allows City to sell Civic Parcel to third party, but gives the developer the right of first refusal to match the third party's terms.

Cooperation Agreement between the City and the Agency

- The City will retain ownership of the Civic Parcel; the Agency will lead in the planning and redevelopment of the parcel on the City's behalf.

Fifth Implementation Agreement to the Las Americas DDA

- Adjusts the boundaries of former parcels A-1, A-2 and A-3 to new parcels A-1, Civic Parcel, and A-3;
- Authorizes the conveyance of Civic Parcel to the City for future redevelopment.

- Authorizes a change in use for parcel A-3 from commercial to residential.
- Authorizes the developer to reduce the square footage of improvements on Parcel A-1 from 270,000 sf to 188,272 sf;
  - i Pro-rates the principal amount of the related Loan Agreement from \$1,780,000 to \$1,246,758 to reflect the reduced square footage on Parcel A-1 and the change in use of Parcel A-3 from commercial to residential; 30-year loan at 10% annual interest. Annual payments of \$132,255 expected to begin in November 2006.
  - j Results in savings of \$530,000 in loan principal or \$1.7 million over 30 years.
- Revises the Schedule of Performance and Public Use Lease payment schedule to reflect changes in construction phasing and to extend to June 30, 2005, the developer's ability to pursue the presidential Permit for the River Pedestrian Bridge on behalf of the City.

Other Actions

- Reinforce the City's commitment to analyzing the feasibility of pursuing and reapplying for a Presidential Permit through the US State Department for implementation of the Las Americas River Pedestrian Bridge connecting San Diego and Tijuana.
- Approve initiation of an amendment to the San Ysidro Community Plan for implementation of Mi Pueblo Pilot Village Project.

**FISCAL IMPACT:**

For the City: The Amended and Restated Second Amendment to Public Use Lease (Parcel A-1) proposes to modify the Lease's economic plan by reverting the rent payment schedule back to its original state as agreed upon in 2001 (MR #01-035). The principal amount of \$6,306,000 will not change, but the full annual rent payments will be \$496,402 to be paid from City sales tax beginning in FY 2007 after Phase 1B1 is developed with 188,232 square feet of building space. The Agreement also requires an annual reserve allocation. For parcel A, the reserve allocation is equivalent to all excess dollars above and beyond the lease payment. This amount is to be deposited into a reserve account until a cap is reached at \$588,096 once in the life of the lease.

The Lease Payments and reserve allocation will be made provided that the project development generates at least that amount of sales tax revenues to the City. The reserve requirement will be calculated annually. The only substantive change to the economic plan is such that the minimum threshold of building space to be developed as a condition for receiving the full rent payment is being reduced by approximately 20,000 square feet.

For the Agency: The Parcel A-1 Loan Agreement's principal amount owed by the Agency will be reduced from the DDA's proposed \$1,780,000 amount to \$1,246,758, saving the Agency \$533,242 in principal, or \$1,696,977 over 30 years.

Cunningham/RC

**NOTE:** See the Redevelopment Agency Agenda of November 22, 2004, for a companion item.

FILE LOCATION: SUBITEM A: NONE  
SUBITEMS B, C, D: MEET

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

MOTION BY INZUNZA TO INTRODUCE THE ORDINANCE IN SUBITEM A, AND ADOPT THE RESOLUTIONS IN SUBITEMS B, C, AND D. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

ITEM-S409: Ninety Day Financial Disclosure Extensions for 21 Special Promotional Programs-Funded Organizations.

(See City Manager Report No. 04-236.)

(Continued from the meeting of November 15, 2004, Item 203, at the request of Councilmember Madaffer, for further review.)

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-462) ADOPTED AS RESOLUTION R-299877, WITH DIRECTION

Waiving Council Policy No. 100-03 titled “Transient Occupancy Tax,” Attachment B: General Requirements and Conditions, Section F.1 in order to grant ninety (90) day extensions for the following 21 organizations for submittal of financial disclosure documents:

**Citywide Economic Development**

Accessible San Diego  
San Diego Convention and Visitors Bureau  
San Diego Hall of Champions  
San Diego World Trade Center

**Economic Development and Tourism Support**

ACCION San Diego  
Travelers Aid Society of San Diego

**Organizational Support Program**

Athenaeum Music and Arts Library  
California Ballet Association  
La Jolla Music Society  
Malashock Dance and Company  
Museum of Contemporary Art San Diego  
San Diego Art Institute  
San Diego Center for Jewish Culture  
San Diego Chamber Orchestra  
San Diego Historical Society  
San Diego Model Railroad Museum  
San Diego Museum of Art  
San Diego Opera Association  
San Diego Symphony Association  
San Diego Youth Symphony

**Festivals and Celebrations**

Adams Avenue Business Association

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:47 p.m. – 4:57 p.m.)

MOTION BY INZUNZA TO ADOPT. ACCEPT COUNCIL MEMBER FRYE'S DIRECTION THAT THE SMALLER 12 ORGANIZATIONS BE ADDED TO THE LIST AND BE SHOWN THE SAME COURTESY AND CONSIDERATION AS THE LARGER GROUPS FOR REPORTING REQUIREMENTS. AS STATED BY COUNCIL MEMBER ATKINS, ON BEHALF OF COUNCIL MEMBER MADAFFER, REQUEST THAT THE COMMISSION FOR ARTS AND CULTURE RETURN TO THE NATURAL RESOURCES AND CULTURE COMMITTEE WITHIN 120 DAYS WITH SUGGESTED REVISIONS TO CURRENT POLICIES REGARDING THE REPORTING REQUIREMENTS FOR THE SMALLER ORGANIZATIONAL TOT

GRANTS WHERE A LARGER DISCUSSION COULD OCCUR. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

ITEM-S410: Cost Recovery Fee for Determination of Public Convenience or Necessity.

(See City Manager Report CMR-04-225.)

(Continued from the meeting of November 15, 2004, Item 103, at the request of Deputy Mayor Atkins, for further review.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-363 Cor. Copy) CONTINUED TO TUESDAY,  
DECEMBER 7, 2004

Adopting the fee schedule for the purpose of recovering the cost of the San Diego Police Department's "public convenience or necessity" determinations;

Declaring that the fee for this service shall be Two Hundred and Twenty Dollars (\$220), and shall be effective thirty days from and after the passage of this resolution;

Declaring that the San Diego Police Department may, in the exercise of its discretion, forgo or excuse the service fee when deemed appropriate;

Authorizing the City Manager to review and adjust the fee annually or as costs of services increase.

FILE LOCATION: MEET

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



MOTION BY ATKING TO CONTINUE TO TUESDAY, DECEMBER 7, 2004 FOR FURTHER REVIEW. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-S411: Appointment to the Sustainable Energy Advisory Board.

(See memorandum from Mayor Murphy dated 11/17/2004, with resume attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-539) ADOPTED AS RESOLUTION R-299878

Council confirmation of the appointment by the Mayor of the City of San Diego of Teresa C. Farrelly, to serve as a member of the Sustainable Energy Advisory Board, replacing Robert Resley, who resigned, and completing his term which ends March 1, 2006, in the category as the San Diego Gas & Electric Company Representative.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

\* ITEM-S412: Appointment and Reappointment to the San Diego Convention Center Corporation Board of Directors.

(See memorandum from Mayor Murphy dated 11/10/2004, with resumes attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-537) ADOPTED AS RESOLUTION R-299879

Nominating the following persons for election to the San Diego Convention Center Corporation Board of Directors:

**NOMINEE**

**NOMINATED BY**

Kevin Tilden

Mayor Dick Murphy

Robert H. Gleason

Mayor Dick Murphy

Re-electing Kevin Tilden to the Board of Directors of the San Diego Convention Center Corporation, for a three-year term to expire on December 1, 2007;

Electing Robert H. Gleason to the Board of Directors of the San Diego Convention Center Corporation, for a three-year term to expire on December 1, 2007, to replace Maria Nieto Senour, whose term has expired.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

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

**NON-DOCKET ITEMS:**

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 5:00 p.m. in honor of the memory of:

Santino Giametta as requested by Council Member Toni Atkins.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 4:58 p.m. – 5:00 p.m.)