

THE CITY OF SAN DIEGO, CALIFORNIA
 MINUTES FOR REGULAR COUNCIL MEETING
 OF
 MONDAY, NOVEMBER 29, 2004
 AT 2:00 P.M.
 IN THE COUNCIL CHAMBERS - 12TH FLOOR

Table of Contents

CHRONOLOGY OF THE MEETING..... 4

ATTENDANCE DURING THE MEETING..... 4

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

ITEM-10: INVOCATION..... 5

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

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

CLOSED SESSION ITEMS.....6

* ITEM-50: Two actions related to Amending San Diego Municipal Code Relating to Parking Task Force..... 10

* ITEM-51: North Embarcadero Visionary Plan: Cleanup Plan and Ordinance Amendments..... 11

ITEM-52: Establishing the Family Justice Center Department..... 11

ITEM-100: Two actions related to Inviting Bids for the Construction of Pump Station Upgrades Group IV – Comfort Stations Project..... 13

ITEM-101: Two actions related to Inviting Bids for the Construction of Pump Station Upgrades – Group I – North County Sewer Pump Stations Project..... 16

* ITEM-102: Additional Funding for the Safe Routes to School – Euclid Elementary Project..... 19

* ITEM-103: Funding for Consultant Services for Palm Avenue/I-805 Interchange Improvements..... 21

Minutes of Monday, November 29, 2004
Table of Contents (Continued)

* ITEM-104:	<u>Third Amendment to the Retainer Agreement with Latham & Watkins for Outside Counsel Services.....</u>	23
* ITEM-105:	<u>Third Amendment to the Retainer Agreement with Horvitz & Levy, for Appellate Legal Services.....</u>	24
* ITEM-106:	<u>Traffic Calming Projects for Marshall Middle School and Dingeman Elementary School in Miramar Ranch North.....</u>	25
* ITEM-107:	<u>Appointment to the City Public Utilities Advisory Commission.....</u>	26
* ITEM-108:	<u>San Diego Convention & Visitors Bureau 50th Anniversary Day.....</u>	27
* ITEM-109:	<u>Excusing Councilmember Zucchet from Attending the Public Safety and Neighborhood Services Committee Meeting of November 17, 2004.....</u>	28
* ITEM-110:	<u>Excusing Councilmember Michael Zucchet from Attending the Land Use and Housing Committee Meeting of November 10, 2004.....</u>	28
* ITEM-111:	<u>Excusing Councilmember Frye from Attending the Land Use and Housing Committee Meeting of November 10, 2004.....</u>	29
ITEM-200:	<u>Two actions related to Inviting Bids for Coastal Sewage Interception/Low Flow Storm Drain Diversion Project – Phase III.....</u>	29
ITEM-201:	<u>Change Order No. 3 with Sverdrup Civil, Inc. for Final Design and Construction Support of the At-Grade Vehicular Railroad Crossing at Park Boulevard and Harbor Drive.....</u>	32
ITEM-202:	<u>Agreement with SBC California (SBC) for the Underground Conversion of Overhead Facilities.....</u>	33
ITEM-250:	<u>Notice of Pending Final Map Approval – 3200 Sixth Avenue.....</u>	35
ITEM-251:	<u>Notice of Pending Final Map Approval - Bella Capri.....</u>	36
ITEM-252:	<u>Notice of Pending Final Map Approval – Park Gate.....</u>	37
ITEM-S400:	<u>Marcia Haas Day.....</u>	38

<u>ITEM-S401:</u>	<u>Les Girard Day.....</u>	38
* <u>ITEM-S402:</u>	<u>Settlement of Claim/Law Suit Brought By Paladin Aviation, Inc.....</u>	39
<u>ITEM-S403:</u>	<u>Agreement with Macias, Gini & Company, LLP for Audit Services for the City of San Diego Fiscal Year 2004 Financial Statements.....</u>	40
<u>ITEM-S404:</u>	<u>Avalon Plaza.....</u>	42
<u>ITEM-S405:</u>	<u>Charlotte Nielsen Day.....</u>	45
<u>NON-DOCKET ITEMS.....</u>		45
<u>ADJOURNMENT.....</u>		45

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:14 p.m. Mayor Murphy recessed the meeting at 3:22 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:31 p.m. with District 4 vacant. Mayor Murphy adjourned the meeting at 4:45 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 Four-vacant
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour (gs)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk 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 Four-vacant
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Intern Pastor Stewart Boyer of Horizon Christian Fellowship.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by City Attorney Casey Gwinn.

FILE LOCATION: MINUTES

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

11/08/2004

11/09/2004

FILE LOCATION: MINUTES

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

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

CLOSED SESSION ITEMS:

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

**CS-1 *De Anza Cove Homeowners Association, Inc. v. City of San Diego*
San Diego Superior Court Case No. GIC 821191**

REFERRED TO CLOSED SESSION ON MONDAY, NOVEMBER 29, 2004

DCA assigned: Gleeson

This matter concerns the litigation filed by the De Anza Cove Homeowners Association against the City of San Diego seeking damages related to expiration of the prior lease and transition of the property from use as a mobile home park to park and recreational use. In closed session, the City's outside litigation counsel and the City Attorney will seek authorization for individual settlement agreements.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:31 p.m. – 4:42 p.m.)

Mayor Murphy closed the hearing

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

CS-2 *Beckworth Library Construction Project*

REFERRED TO CLOSED SESSION ON MONDAY, NOVEMBER 29, 2004

DCA assigned: Wright-Travis

This matter involves the remodel at Beckworth Library. The City made a demand on the performance bond after the contractor defaulted on the construction contract. In closed session the City Attorney will advise the Mayor and City Council on the status of the matter and seek appropriate direction.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:31 p.m. – 4:42 p.m.)

Mayor Murphy closed the hearing

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

CS-3 *Meadows Del Mar v. City of San Diego*

REFERRED TO CLOSED SESSION ON MONDAY, NOVEMBER 29, 2004

ACA assigned: Girard

This matter involves a dispute over the construction of a public trail on private property. In closed session the City Attorney will advise the City Council on the merits of the matter and appropriate direction.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:31 p.m. – 4:42 p.m.)

Mayor Murphy closed the hearing

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

CS-4 Property:	Approximately 44,875 sq. ft. of the San Diego Concourse, including Golden Hall and ancillary space (Portions of APN 533-433-27)
City Negotiator:	William T. Griffith, Real Estate Assets Director
Negotiating Parties:	Smokey Gaines, The San Diego Smoke
Under Negotiation:	Seeking direction pertaining to a proposal received from Smokey Gaines for use of Golden Hall and Ancillary space.

REFERRED TO CLOSED SESSION ON MONDAY, NOVEMBER 29, 2004

DCA assigned: Gleeson

This matter involves a proposal from Smokey Gaines the owner of the ABA franchise, San Diego Smoke for use of Golden Hall and ancillary space totaling approximately 44,875 sq. ft. In closed session City staff will advise the Mayor and City Council on the matter and seek appropriate direction.

Closed Session Comment 1:

Comment by Smokey Gaines regarding the recent lease proposal.

Closed Session Comment 2:

Comment by Daniel Weber regarding the jobs and tourism that would be brought to San Diego by the many events at Golden Hall.

Closed Session Comment 3:

Comment by Jim Lantry regarding the request for proposal process and many discussions held with the City.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:32 p.m. – 4:42 p.m.)

Mayor Murphy closed the hearing

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 ON MONDAY, NOVEMBER 29, 2004

HDCA assigned: 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.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:31 p.m. – 4:42 p.m.)

Mayor Murphy closed the hearing

Public employment, pursuant to California Government Code section 54957(b)(1):

CS-6 Title: City Auditor and Comptroller

REFERRED TO CLOSED SESSION ON MONDAY, NOVEMBER 29, 2004

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:31 p.m. – 4:42 p.m.)

Mayor Murphy closed the hearing

* ITEM-50: Two actions related to Amending San Diego Municipal Code Relating to Parking Task Force.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinances, which were introduced on 11/15/2004, Item 201.
(Council voted 7-0. Councilmember Peters not present. District 4-vacant.):

Subitem-A: (O-2005-54) ADOPTED AS ORDINANCE O-19336 (New Series)

Amending Chapter 8, Article 6, Division 00, of the San Diego Municipal Code by amending Section 86.04, all relating to Traffic and Vehicles.

Subitem-B: (O-2005-59) ADOPTED AS ORDINANCE O-19337 (New Series)

Amending Chapter 2, Article 6, of the San Diego Municipal Code by adding Division 18, titled "Parking Advisory Board," and Sections 26.1801, 26.1802, and 26.1803, all relating to the creation of a Parking Advisory Board.

FILE LOCATION: MEET

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

CONSENT MOTION BY MADAFFER 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-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-51: North Embarcadero Visionary Plan: Cleanup Plan and Ordinance Amendments.

(Columbia Redevelopment District and Marina Sub Area of the Expansion Sub Area of the Centre City Redevelopment Project. District 2.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 11/15/2004, Item S401. (Council voted 7-0. Councilmember Peters not present. District 4-vacant):

(O-2005-63) ADOPTED AS ORDINANCE O-19338 (New Series)

Amending Chapter 10, Article 3, of the San Diego Municipal Code by amending Sections 103.1904, 103.1910, 103.1915, 103.1918, 103.1925, 103.1933, 103.1936, all relating to the Centre City Planned District Ordinance.

FILE LOCATION: MEET

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

CONSENT MOTION BY MADAFFER 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-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-52: Establishing the Family Justice Center Department.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 11/15/2004, Item 200. (Council voted 7-0. Councilmember Peters not present. District 4-vacant.):

(O-2005-61 Rev.) ADOPTED WITH DIRECTION AS ORDINANCE
O-19339 (New Series)

Amending Chapter 2, Article 2, Division 18 of the San Diego Municipal Code by amending Section 22.1801(b) and amending Chapter 2, Article 2 of the San Diego Municipal Code by adding Division 22 and Sections 22.2201, 22.2202, and 22.2203, all relating to the creation of the Family Justice Center Department.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:21 p.m.)

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

MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE WITH DIRECTION TO THE CITY MANAGER THAT THE FAMILY JUSTICE CENTER DEPARTMENT ORDINANCE SHOULD BE VIEWED AS A SHORT-TERM, TEMPORARY APPROACH TO GOVERNANCE OF THE FAMILY JUSTICE CENTER. WHILE CRITICAL TO THE CURRENT GOVERNANCE NEEDS OF THE FAMILY JUSTICE CENTER, THE ORDINANCE AND CODIFICATION OF THE CENTER MAY NOT BE THE BEST APPROACH IN THE LONG-RUN. THE CENTER'S STRATEGIC PLANNING PROCESS ALSO IDENTIFIED TWO ALTERNATE GOVERNANCE APPROACHES WHICH MAY WORK MORE EFFECTIVELY IN THE LONG-RUN. ONE POSSIBLE APPROACH INVOLVES CREATION OF A PUBLIC BENEFIT CORPORATION TO ADMINISTER THE FAMILY JUSTICE CENTER THROUGH A COMMUNITY-BASED GOVERNANCE BOARD. ANOTHER POSSIBLE APPROACH INCLUDES CREATION OF A JOINT POWERS AUTHORITY BETWEEN THE CITY OF SAN DIEGO AND THE COUNTY OF SAN DIEGO. WHILE THE CURRENT OPERATION NEEDS AN IMMEDIATE GOVERNANCE STRUCTURE AND THE COMMUNITY NEEDS CERTAINTY ABOUT THE CITY'S COMMITMENT TO THE CENTER'S DAY TO DAY OPERATION, THERE MAY BE A BETTER LONG-TERM GOVERNANCE STRUCTURE. SUCH A STRUCTURE SHOULD INCLUDE STRONG COMMUNITY PARTICIPATION AND COUNTY OF SAN DIEGO'S PARTICIPATION. AFTER ADOPTION OF THE ORDINANCE, THE MANAGER IS DIRECTED TO CONVENE A NEW FAMILY JUSTICE CENTER STEERING COMMITTEE AND ALL NECESSARY STAKEHOLDERS, INCLUDING MEA, IN

ORDER TO CONDUCT A SIX MONTH STUDY OF ALTERNATIVE GOVERNANCE STRUCTURES WHICH MAY ADDRESS THE NEEDS OF THE FAMILY JUSTICE CENTER AND HOW IT MAY RUN MORE EFFECTIVELY IN THE LONG-RUN. THE MANAGER IS DIRECTED TO RETURN TO THE PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE IN 180 DAYS WITH A REPORT ON THE MOST VIABLE AND EFFECTIVE LONG-TERM GOVERNANCE STRUCTURE FOR THE SAN DIEGO FAMILY JUSTICE CENTER. ONCE ALL DETAILS ARE ADDRESSED, THE MANAGER SHOULD IDENTIFY A PERMANENT GOVERNANCE STRUCTURE THAT ENSURES THE LONG-TERM SUCCESS AND VIABILITY OF THE FAMILY JUSTICE CENTER. WHILE A PERMANENT CITY DEPARTMENT MAY BE THE BEST APPROACH, OTHER APPROACHES SHOULD BE EXPLORED GIVEN THE POTENTIAL SCOPE AND MAGNITUDE OF THE LONG-TERM VISION OF THE SAN DIEGO FAMILY JUSTICE CENTER. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-100: Two actions related to Inviting Bids for the Construction of Pump Station Upgrades Group IV – Comfort Stations Project.

(See memorandum from Richard Mendes dated 9/30/2004.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2005-421 Revised) RETURNED TO THE CITY MANAGER

Approving the plans and specifications for the construction of Pump Station Upgrades Group IV - Comfort Stations (Project) on Job Order No. 140064;

Authorizing the City Manager, after advertising for bids in accordance with law, to award a contract to, and execute a contract with, the lowest responsible and reliable bidder for the Project in an amount not to exceed \$1,522,000, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for the expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of a total amount not to exceed \$1,861,450 from Fund 41506, CIP-41-929.0, Pump Station Upgrades, of which \$1,522,000 is for construction and \$339,450 is for construction management and related costs, solely and exclusively, for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for the expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$152,200 from Fund 41506, CIP-46-193.0, Annual Allocation - Municipal Pooled Contingency, solely and exclusively, for the purpose of providing contingency funds for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for the expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K05103)

Subitem-B: (R-2005-422) RETURNED TO THE CITY MANAGER

Certifying that the Mitigated Negative Declaration, LDR No. 31233, dated September 3, 2004 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said declaration, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Pump Station Upgrades Group IV - Comfort Stations (Project);

Approving the Mitigated Negative Declaration;

Adopting the Mitigation Monitoring and Reporting Program, pursuant to California Public Resources Code Section 21081.6;

Directing the City Clerk to file a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 10/06/2004, NR&C voted 4 to 0 to approve the City Manager's recommendation in regards to substantive aspects of the project with direction to the City Manager to include the department's best management practices in the environmental documentation when it comes forward to the full Council. (Councilmembers Zucchet, Frye, Madaffer, and Inzunza voted yea. District 4-vacant.)

SUPPORTING INFORMATION:

The Citywide Pump Station Upgrade Projects involve four separate groups of construction contracts, totaling 22 sewer pump stations. Citywide Pump Station Upgrades – Group IV – Comfort Stations involves electrical, mechanical, and miscellaneous upgrades of eight sewer pump stations that serve comfort stations in the Mission Bay and Harbor Island areas of the City and the trailers at the City's Chollas Operations Center. Specifically, it involves station number 46 at Chollas; station numbers 52 and 53 on Harbor Island; and station numbers 54, 55, 56, 57, and 58 along the east side of Mission Bay. The upgrades include: the addition of water supply shutoff solenoid valves, telemetry systems, new pumps, passive odor-control systems, new access hatches, concrete paving, jib cranes, flow meters, new ventilation systems, new handrails, new control panels, new wet well level monitoring systems, and upgrades to three-phase power.

At the October 8, 2004, Natural Resources and Culture (NR&C) Committee Meeting, concern regarding the potential water quality effects of the proposed project and the need for Stormwater - Best Management Practices (BMP's) was raised. A Final Mitigated Negative Declaration (MND), including Initial Study Discussion, was prepared and the potential for adverse downstream water quality effects to State Listed impaired water bodies was discussed on Pages 4 & 5 of the Initial Study. MWWD Contract Specifications have included measures requiring the contractor to prepare various stormwater management plans prior to the preconstruction meeting, and to implement these BMPs during construction. With these measures incorporated into project design, impacts to water quality are not considered significant and therefore no mitigation is required.

The Metropolitan Wastewater Department is requesting approval to advertise, bid, and award the construction contract to the lowest responsible bidder and requesting certification of the California Environmental Quality Act (CEQA) document.

FISCAL IMPACT:

The total of this request is \$2,013,650 of which \$1,522,000 is for construction, \$339,450 is for construction management and related costs, and \$152,200 is for contingencies. Funds, in the amount of \$1,861,450, are available in Sewer Fund 41506, CIP-41-929.0, Pump Station Upgrades, and funds, in the amount of \$152,200, are available in Sewer Fund 41506, CIP-46-193.0, Annual Allocation – Muni Pooled Contingency. This project is part of the existing capital improvement program and is not dependent on future financing proceeds.

Mendes/Tulloch/AKS

FILE LOCATION: MEET

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

ITEM-101: Two actions related to Inviting Bids for the Construction of Pump Station Upgrades – Group I – North County Sewer Pump Stations Project.

(See memorandum from Richard Mendes dated 9/30/2004.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2005-488) RETURNED TO THE CITY MANAGER

Approving the plans and specifications for the Pump Station Upgrades Project - Group I - North County Sewer Pump Stations (Project) on Work Order No. 178921;

Authorizing the City Manager, after advertising for bids in accordance with law, to award a contract to, and execute a contract with, the lowest responsible and reliable bidder for the Project in an amount not to exceed \$3,850,000, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for the expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of a total amount not to exceed \$4,250,558 from Fund 41506, CIP-41-929.0, Pump Station Upgrades, of which \$3,850,000 is for construction and \$400,558 is for construction management and related costs, solely and exclusively, for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for the expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$192,500 from Fund 41506, CIP-46-193.0, Annual Allocation – Municipal Pooled Contingency, solely and exclusively, for the purpose of providing contingency funds for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for the expenditure are, or will be, on deposit with the City Treasurer;

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

Subitem-B: (R-2005-489) RETURNED TO THE CITY MANAGER

Certifying that the Mitigated Negative Declaration, LDR No. 31233, dated September 3, 2004, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said declaration, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Pump Station Upgrades Project - Group I - North County Sewer Pump Stations (Project).

Approving the Mitigated Negative Declaration;

Adopting the Mitigation Monitoring and Reporting Program, pursuant to California Public Resources Code Section 21081.6;

Directing the City Clerk to file a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 10/06/2004, NR&C voted 4 to 0 to approve the City Manager's recommendations in regards to substantive aspects of the project with direction to the City Manager to include the department's best management practices in the environmental documentation when it comes forward to the full Council. (Councilmembers Zucchet, Frye, Madaffer, and Inzunza voted yea. District 4-vacant.)

SUPPORTING INFORMATION:

The Citywide Pump Station Upgrade Projects involve four separate groups and construction contracts, and an overall total of 22 sewer pump stations. Citywide Pump Station Upgrades – Group I – North County Sewer Pump Station (SPS) Upgrades consists of civil, mechanical, electrical, and miscellaneous upgrades of seven sewer pump stations. The subject pump stations are as follows: 71, 73, 74, 75, 76, 80, and 82, and the upgrades include: replacement of submersible sewage pumps, replacement of sewage pump motors (encapsulated), pump discharge piping and valves, wet well monitoring system, addition of outside lights, flow meters, second force main discharge piping, emergency storage tanks including overflow and backflow piping, passive odor control systems, emergency generators and emergency generator cable conduits and emergency pump connections, repair wet well liner, site restoration, addition of valve vaults, and other miscellaneous upgrades.

These facilities are located at various part of San Diego North County and have served the community for the past 17-23 years, and these upgrades are required to improve the wastewater operations and bring these pump stations up to current standards.

At the October 8, 2004, Natural Resources and Culture (NR&C) Committee Meeting, concern regarding the potential water quality effects of the proposed project and the need for Stormwater - Best Management Practices (BMP's) was raised. A Final Mitigated Negative Declaration (MND), including Initial Study Discussion, was prepared and the potential for adverse downstream water quality effects to State Listed impaired water bodies was discussed on Pages 4 & 5 of the Initial Study. MWWD Contract Specifications have included measures requiring the contractor to prepare various stormwater management plans prior to the preconstruction meeting, and to implement these BMPs during construction. With these measures incorporated into project design, impacts to water quality are not considered significant and therefore no mitigation is required.

The Metropolitan Wastewater Department is requesting approval to advertise, bid, and award the construction contract to the lowest responsible bidder and requesting certification of the California Environmental Quality Act (CEQA) document.

FISCAL IMPACT:

The total cost of this request is \$4,443,058 of which \$3,850,000 is for construction, \$400,558 is for construction management and related costs, and \$192,500 is for contingencies. Funds, in the amount of \$4,250,558, are available in Sewer Fund 41506, CIP-41-929.0, Pump Station Upgrades – Group I, and funds, in the amount of \$192,500, are available in Sewer Fund 41506, CIP-46-193.0, Annual Allocation – Muni Pooled Contingency. This project is part of the existing capital improvement program and is not dependent on future financing proceeds.

Mendes/Tulloch/AKS

FILE LOCATION: MEET

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

* ITEM-102: Additional Funding for the Safe Routes to School – Euclid Elementary Project.

(City Heights Community Area. District 3.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-552) ADOPTED AS RESOLUTION R-299889

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$80,000 from Fund No. 30300, TransNet CIP-52-715.0, New Walkways, to CIP-62-263.0, Safe Routes to School – Euclid Elementary;

Approving the expenditure of an amount not to exceed \$80,000 from Fund No. 30300, TransNet Funds, for the purpose of construction of additional sidewalk improvements for CIP-62-263.0, Safe Routes to School – Euclid Elementary;

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

CITY MANAGER SUPPORTING INFORMATION:

Euclid Elementary School is located on Euclid Avenue between Orange Avenue and Polk Avenue in the neighborhood of City Heights. The school is situated in a high density residential area congested with traffic. Many students must cross busy collector streets while walking to school. Others are driven by parents and dropped off on Euclid or Orange Avenue. The project provides for improvements in pedestrian safety, traffic calming, and increased crossing opportunities for students and residents within this busy area.

The project is funded by a grant from the State of California for the construction of safer routes to school and TransNet. The City Council on May 15, 2001, R-294835, authorized the City Manager to apply for the grant and to use the money for traffic improvements around the school. The scope of the project includes the installation of sidewalks, curb extensions and enhanced pavement markings, a protected left turn signal, as well the installation of a pedestrian activated traffic signal. All improvements are located within one quarter mile of the intersection of Euclid Avenue and Orange Avenue.

During construction, it was determined that additional sidewalks within the vicinity of the project needed to be replaced. These additional improvements will provide safer walkways for students and residents in the area, thus encompassing the original intent of the Safe Routes to School project. The supplementary work is estimated at \$80,000. Funding is available in CIP-52-715.0, New Walkways.

FISCAL IMPACT:

The total cost of the project is estimated at \$665,000, of which \$585,000 is available in CIP-62-263.0 Safe Route to School - Euclid Elementary. The additional funding of \$80,000 is available in Fund 30300, TransNet, CIP-52-715.0, New Walkways.

Mendez/Boekamp/DZ

Aud. Cert. 2500476.

FILE LOCATION: MEET

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

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

* ITEM-103: Funding for Consultant Services for Palm Avenue/I-805 Interchange Improvements.

(Otay Mesa and Otay Mesa-Nestor Community Areas. District 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-516) ADOPTED AS RESOLUTION R-299890

Amending the Fiscal Year 2005 Otay Mesa Public Facilities Financing Plan, Fund 79014, Otay Mesa-West FBA, by appropriating an amount of \$38,000 in Fiscal Year 2005 for Capital Improvement Project CIP-52-640.0 (Palm Avenue/ Interstate 805 Interchange);

Amending the Fiscal Year 2005 Otay Mesa Public Facilities Financing Plan, Fund 79013, Otay Mesa-East FBA, by appropriating an amount of \$62,000 in Fiscal Year 2005 for CIP-52-640.0 (Palm Avenue/Interstate 805 Interchange);

Amending the Fiscal Year 2005 CIP budget in Fund 79014, Otay Mesa-West FBA, CIP-52-640.0 (Palm Avenue/Interstate 805 Interchange), by increasing the budget amount by \$38,000;

Amending the Fiscal Year 2005 CIP budget in Fund 79013, Otay Mesa-East FBA, CIP-52-640.0 (Palm Avenue/Interstate 805 Interchange), by increasing the budget amount by \$62,000;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$38,000 from Fund 79014, Otay Mesa-West, CIP-52-640.0 (Palm Avenue/Interstate 805 Interchange), for the purpose of securing consultant services to provide cost estimates for the completion of the Palm Avenue/Interstate 805 Interchange project;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$62,000 from Fund 79013, Otay Mesa-East, CIP-52-640.0 (Palm Avenue/Interstate 805 Interchange), for the purpose of securing consultant services to provide cost estimates for the Palm Avenue/Interstate 805 Interchange project.

CITY MANAGER SUPPORTING INFORMATION:

Improvements to the Palm Avenue/I-805 Interchange are being performed in three stages and four phases. Stage 1 consisted of signalization of the on and off-ramps, and has been completed. Stage 2 consists of repairs to the bridge approaches and abutments; partial bridge widening; restriping; and sidewalk, signal, and signage modifications. Stage 3 will widen the bridge to its ultimate width, relocating and redesigning the northbound on and off-ramps, and widening of the on-ramps.

The City and Caltrans are prepared to enter into agreements to perform the Stage 2 and Stage 3 work. However, at this time, there are no cost estimates for the Stage 2 and Stage 3 activities. Consultant services will be required to provide those estimates, and such services are particularly needed for specialized estimates such as the bridge structure improvements.

Staff is recommending that a total of \$100,000 be transferred from the Otay Mesa FBAs to CIP-52-640.0 (Palm Avenue/Interstate 805 Interchange) for the purpose of hiring a consultant to prepare the cost estimates and a financing timetable in time for the revision of the Otay Mesa Public Facilities Financing Plan in Spring 2005.

The consultant agreement will be brought to Council for approval at a later date.

FISCAL IMPACT:

\$38,000 from the Otay Mesa-West FBA, Fund 79014, and \$62,000 from the Otay Mesa-East FBA, Fund 79013.

Mendes/Boekamp/LVW

Aud. Cert. 2500475.

FILE LOCATION: MEET

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

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

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

* ITEM-105: Third Amendment to the Retainer Agreement with Horvitz & Levy, for Appellate Legal Services.

(Otay Mesa Community Area. District 8.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-555) ADOPTED AS RESOLUTION R-299892

Authorizing a Third Amendment to the Retainer Agreement by and between the City of San Diego and Horvitz & Levy, for appellate legal services in Otay Acquisition v. City of San Diego, San Diego Superior Court Case No. GIC 753247, National Enterprise v. City of San Diego, San Diego Superior Court Case No. GIC 730011, and Border Business Park, Inc. v. City of San Diego, San Diego Superior Court Case No. GIC 692794;

Authorizing the expenditure of an amount not to exceed \$100,000 from Liability Fund No. 81140, solely and exclusively, for the purpose of providing funds for the above agreement.

SUPPORTING INFORMATION:

The City previously retained the firm of Horvitz & Levy to provide outside appellate counsel services in the matters of Otay Acquisition v. City, S.D.S.C., Case No. GIC 753247; National Enterprise v. City, S.D.S.C., Case No. GIC 730011; and Border Business Park, Inc. v. City, S.D.S.C., Case No. GIC 692794. The current agreement is in an amount not to exceed \$600,000. Additional services are now required to participate in ongoing court proceedings and prepare for future court proceedings, and an additional \$100,000 is required to fund the necessary services. The total contract will be in an amount not to exceed \$700,000.

Girard/Ewell

Aud. Cert. 2500507.

FILE LOCATION: MEET

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

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

* ITEM-106: Traffic Calming Projects for Marshall Middle School and Dingeman Elementary School in Miramar Ranch North.

(Miramar Ranch North Community Area. District 5.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-553) ADOPTED AS RESOLUTION R-299893

Amending the Fiscal Year 2005 Capital Improvements Program (CIP) Budget for CIP-61-001.0, Traffic Control Measures, Fund No. 392109, BCED McMillan-Miramar Ranch North Off-Site Roads, by increasing the budget amount by \$87,700;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$87,700 from Fund No. 392109, BCED McMillan-Miramar Ranch North Off-Site Roads to CIP-61-001.0, Traffic Control Measures;

Authorizing the appropriation and expenditure of an amount not to exceed \$87,700 from CIP-61-001.0, Traffic Control Measures, solely and exclusively, for the purpose of providing funds for the construction of traffic calming projects for Marshall Middle School and Dingeman Elementary School in Miramar Ranch North;

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

CITY MANAGER SUPPORTING INFORMATION:

This project will install Intersection Pop-Outs on Scripps Creek Drive in front of Dingeman Elementary School and on Cypress Canyon Road in front of Marshall Middle School. These Pop-Outs will provide a safer crossing for students. The estimated cost for this project is \$87,700, which will include removal of existing curb, gutter and pavement, and installation of new type "G" curb, gutter, stamped concrete, curb ramps, striping, street signs, curbing painting and traffic control during construction.

FISCAL IMPACT:

Council District 5 is providing \$87,700 as a transfer from Fund 392109, BCED McMillan-Miramar Ranch North Off-Site Roads, for this project.

Mendes/Boekamp/DZ

Aud. Cert. 2500470.

FILE LOCATION: MEET

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

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

* ITEM-107: Appointment to the City Public Utilities Advisory Commission.

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

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-576) ADOPTED AS RESOLUTION R-299894

Council confirmation of the appointment by the Mayor of the City of San Diego of Bob Nelson, to serve as a member of the City Public Utilities Advisory Commission, replacing Deborah Huffman, who resigned, for a term ending January 1, 2006.

FILE LOCATION: MEET

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

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

* ITEM-108: San Diego Convention & Visitors Bureau 50th Anniversary Day.

DEPUTY MAYOR ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-484) ADOPTED AS RESOLUTION R-299895

Congratulating San Diego Convention & Visitors Bureau (ConVis) and joining San Diego's visitor industry in celebration of the bureau's 50 years of achievement and contributions to the City of San Diego;

Proclaiming October 29, 2004, to be "San Diego Convention & Visitors Bureau 50th Anniversary 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 MADAFFER TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-109: Excusing Councilmember Zucchet from Attending the Public Safety and Neighborhood Services Committee Meeting of November 17, 2004.

COUNCILMEMBER ZUCCHET'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-602) ADOPTED AS RESOLUTION R-299896

Excusing Councilmember Michael Zucchet from attending the Wednesday, November 17, 2004, Public Safety and Neighborhood Services Committee Meeting.

FILE LOCATION: AGENDA

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

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

- * ITEM-110: Excusing Councilmember Michael Zucchet from Attending the Land Use and Housing Committee Meeting of November 10, 2004.

COUNCILMEMBER ZUCCHET'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-549) ADOPTED AS RESOLUTION R-299897

Excusing Councilmember Michael Zucchet from attending the November 10, 2004, Land Use and Housing Committee Meeting.

FILE LOCATION: AGENDA

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

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

* ITEM-111: Excusing Councilmember Frye from Attending the Land Use and Housing Committee Meeting of November 10, 2004.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-601) ADOPTED AS RESOLUTION R-299898

Excusing Councilmember Donna Frye from attending the November 10, 2004, Land Use and Housing Committee Meeting.

FILE LOCATION: AGENDA

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

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

ITEM-200: Two actions related to Inviting Bids for Coastal Sewage Interception/Low Flow Storm Drain Diversion Project – Phase III.

(La Jolla, Pacific Beach, and Ocean Beach Community Areas. Districts 1 and 2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-505) ADOPTED AS RESOLUTION R-299899

Approving the plans and specifications for the construction of Coastal Sewage Interception/Low Flow Storm Drain Diversion Project - Phase III (Project), on Work Order No. 121240;

Authorizing the City Manager, after advertising for bids in accordance with law, to award the Project contract to the lowest responsible and reliable bidder in an amount not to exceed \$2,405,217, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$2,405,217 from CIP-12-124.0, Beach Area Sewage Interception/Low Flow Storm Drain, solely and exclusively, for the purpose of providing funds for the Project (construction, construction contingencies, inspection, engineering, administration, and field inspection) and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K05523)

Subitem-B: (R-2005-507) ADOPTED AS RESOLUTION R-299900

Certifying that Mitigated Negative Declaration LDR No. 3362, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), and the National Environmental Policy Act (NEPA), that the declaration 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 this Council in connection with the approval of Coastal Sewage Interception/Low Flow Storm Drain Diversion Project - Phase III Project (Project);

Approving the Mitigated Negative Declaration;

Adopting the Mitigation Monitoring and Reporting Program, pursuant to California Public Resources Code Section 21081.6;

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

CITY MANAGER SUPPORTING INFORMATION:

This project provides for the interception and diversion of incidental sewage spills as well as beach area summer period contaminated nuisance flows that might otherwise spill to the beach through storm drain outfalls. These diverted flows are directed into the sewer system for treatment. This is implemented through the construction of sub-surface diversion valves or interceptor pump stations at 11 storm drain outfall sites of which 4 sites are located in La Jolla, 6 sites are located in Pacific Beach and 1 site is located in Ocean Beach. Funding for the construction and contingency of the 11 new diversion facilities is provided through 55% from Federal Grants (\$1,150,321) and 45% (\$941,172) from sewer funds as City match to the Federal grant.

The locations of the 11 low flow diversion facilities are listed below and shown on the maps:

- 1 Site (IPS-24) is located on Coast Blvd. at Nicholson Point.
- 1 Site (DV-16) is located on Marine Street
- 1 Site (DV-22) is located on Fern Glen.
- 1 Site (DV-57) is located on Sea Ridge Drive
- 1 Site (DV-10) is located on Chelsea Street
- 1 Site (IPS-18) is located on Loring St.
- 1 Site (DV-09) is located on Law St.
- 1 Site (DV-08) is located on Chalcedony St.
- 1 Site (DV-07) is located on Missouri St.
- 1 Site (IPS-17) is located on Felspar St.
- 1 Site (IPS-15) is located on Point Lorna Ave. & Sunset Cliffs Blvd.

FISCAL IMPACT:

The total authorized to expend is \$2,405,217. Funds in the amount of \$2,405,217 are currently available in Fund 10525, CIP-12-124.0, Beach Area Sewage Interception/Low Flow Storm Drain Diversion.

Mendes/Boekamp/DZ

Aud. Cert. 2500432.

FILE LOCATION: W. O. 121240

COUNCIL ACTION: (Time duration: 4:00 p.m. – 4:09 p.m.)

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

ITEM-201: Change Order No. 3 with Sverdrup Civil, Inc. for Final Design and Construction Support of the At-Grade Vehicular Railroad Crossing at Park Boulevard and Harbor Drive.

(See City Manager Report No. CMR-04-253. Centre City Community Area. Districts 2 and 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-599) TRAILED TO TUESDAY, NOVEMBER 30, 2004

Finding and determining that the foregoing recitals are true and correct, as being in the best interests of the City;

Authorizing the City Manager to execute Change Order No. 3 with Sverdrup Civil, Inc., in the amount of \$525,000 for final design and construction support of the at-grade vehicular railroad crossing at Park Boulevard and Harbor Drive;

Authorizing and directing the City Manager and City Auditor and Comptroller to execute the necessary documentation, including, if necessary, an assignment of the Sverdrup Civil, Inc. contract, to cause the transfer of responsibility for future construction work for the at-grade crossing to the Redevelopment Agency, and to transfer the remaining available funding within the City's infrastructure budget of \$2,641,374 to the Redevelopment Agency for that purpose;

Authorizing and directing the City Manager and City Auditor and Comptroller, upon completion of the design and construction work on the at-grade crossing by Sverdrup Civil, Inc. pursuant to the existing contract with the City, to transfer any remaining funding to the Redevelopment Agency for future construction work on the at-grade crossing;

Authorizing and directing the City Manager and City Auditor and Comptroller to reimburse the Padres in the amount of \$769,545 for infrastructure work performed by the Padres on behalf of the City, and to execute a necessary or appropriate documentation for that purpose;

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

Aud. Cert. 2500513.

FILE LOCATION: NONE

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

ITEM-202: Agreement with SBC California (SBC) for the Underground Conversion of Overhead Facilities.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-579) ADOPTED AS RESOLUTION R-299901

Authorizing the City Manager to execute an agreement with SBC for the relocation of overhead facilities to underground service, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this project and Agreement;

Declaring that the Council of the City of San Diego supports and endorses the application for cost recovery to be filed by SBC with the CPUC, currently estimated by SBC to be \$1.00 per month per customer;

Authorizing the City Manager to accept, appropriate, and expend funds that may be received from SBC pursuant to the Agreement, for the Underground Utility Districts for which the funds are received or designated;

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

CITY MANAGER SUPPORTING INFORMATION:

The Underground Utility Program converts existing overhead utility lines to underground service in the City of San Diego. The City and SDG&E previously agreed to expand the scope of the Underground Utility Program to extend to areas that are not eligible under the statewide program known as Rule 20. The proposed Agreement with SBC California (SBC) will secure SBC's participation in the expanded Underground Utility Program, contingent upon the California Public Utilities Commission's approval of a cost recovery mechanism for SBC.

The proposed Agreement requires SBC to file an Application with the CPUC for permission to collect a surcharge from its customers to cover SBC's undergrounding costs. SBC estimates the cost to be \$1.00 per month per customer. The monthly surcharge will be adjusted periodically by the CPUC to reflect SBC's actual costs. The monthly surcharge will be marked on SBC telephone bills as a City of San Diego undergrounding surcharge. The City is required to actively support the Application and the estimated \$1.00 surcharge amount.

The Application process is estimated to take six to nine months, though SBC estimates it could take as long as eighteen to twenty-four months. While the Application is pending, the City will pay SBC to design underground conduit which the City will install in conjunction with the

relocation of SDG&E and cable company lines. This avoids the need to re-trench City streets when the time comes to relocate SBC facilities. If the Application is approved, SBC will be allowed to accumulate six months worth of surcharge funds before it begins to remove its overhead lines. The oldest projects are anticipated to be converted first, as SBC hires additional staff over four years to keep pace with the City's expanded program. SBC will purchase the conduit previously installed by the City while the Application was pending. The City will absorb the conduit installation costs, including SBC's share of the joint trench costs, as the City now does for Cox and Time-Warner. This is estimated to be approximately \$2 million per year, and will be paid from SDG&E franchise fee funds.

If the Application is not approved by the CPUC, or approved for only a portion of SBC's actual costs, then the City and SBC will meet to discuss other alternatives to secure SBC's participation in the Underground Utility Program.

FISCAL IMPACT:

None.

Mendes/Boekamp/NB

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:48 p.m. – 3:22 p.m.)

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

ITEM-250: **Notice** of Pending Final Map Approval – 3200 Sixth Avenue.

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 “3200 Sixth Avenue” (T.M. No. 75472 PTS No. 47011), located northwesterly of 6th Avenue and Spruce Street in the Uptown Community Plan Area in Council District 2, 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-25 1: **Notice** of Pending Final Map Approval - Bella Capri.

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 "Bella Capri" (T.M. No. 61329, W.O. No. 423007), located northeasterly of Pearl Street and Draper Avenue in the La Jolla Community Plan Area in Council District 1, 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.

ITEM252-: Notice of Pending Final Map Approval – Park Gate.

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 “Park Gate” (T.M. No. 22399), located southeasterly of Park Boulevard and Monroe Avenue in the Greater North Park Community Planning Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

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

ITEM-S400: Marcia Haas Day.

COUNCILMEMBER ZUCCHET'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-638) ADOPTED AS RESOLUTION R-299902

Proclaiming November 29, 2004, to be "Marcia Haas Day" in the City of San Diego and urging our citizens to join in the commemoration of this day.

FILE LOCATION: AGENDA

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

MOTION BY ZUCCHET 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-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S401: Les Girard Day.

COUNCILMEMBER MAIENSCHHEIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-636) ADOPTED AS RESOLUTION R-299903

Proclaiming November 29, 2004, to be "Les Girard Day" in the City of San Diego in recognition of the vital services that he has provided the citizens of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:30 p.m. – 2:41 p.m.)

MOTION BY MAIENSCHHEIN 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-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-S402: Settlement of Claim/Law Suit Brought By Paladin Aviation, Inc.

(Kearny Mesa Community Area. District 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-575) ADOPTED AS RESOLUTION R-299904

A Resolution approved by the City Council in Closed Session on Tuesday, November 9, 2004, by the following vote: Zucchet-yea; Atkins-yea; Maienschein-yea; Madaffer-yea; Mayor-yea; Nays none; Peters-absent; Frye-absent; Inzunza-absent; District 4-vacant.

Authorizing the City Manager to expend a sum not to exceed \$3,500,000 in settlement of each and every claim against the City of San Diego, its agents and employees, in San Diego Superior Court Case No. GIC821416 (and all Consolidated actions, to wit: UC309996/GIC826820), Paladin Aviation, Inc. v. City of San Diego.;

Authorizing the City Manager and City Auditor and Comptroller to issue one check in the amount of \$297,866.19, made payable to Fox, Johns, Lazar, Pekin & Wexler Client Trust Account, from Fund 41100, Account No. 4141, Department 720, Organization Number 2102, Object Account 4141, Job Order 255357 for fees and attorneys costs;

Authorizing the City Manager and City Auditor and Comptroller to issue one check in the amount of \$443,011, made payable to Paladin Aviation, Inc., from Fund 41100, Account No. 4141, Department 720, Organization Number 2102, Object Account 4141, Job Order 255357, as a down payment on the purchase of Plaintiff's leasehold;

Authorizing the expenditure of an amount not to exceed \$2,759,122.81 from Fund 41100, Account No. 4141, Department 720, Organization Number 2102, Object Account 4141, Job Order 255357, to provide funds for the above annuity purchase to be made to Ringler & Associates, Inc., provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the fund necessary for this expenditure are, or will be, on deposit in the City Treasury;

Authorizing the transfer of up to \$3,500,000 from the Airport Enterprise Fund balance, Fund 41100 to Fund 41100, Department 720, Org 2102, Object Account 4141, Job Order 255357, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the fund necessary for this expenditure are, or will be, on deposit in the City Treasury.

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

CITY MANAGER SUPPORTING INFORMATION:

On November 9, 2004, the Mayor and Council, in Closed Session, approved the settlement of all disputed claims and related matters. The proposed action constitutes the complete and final settlement of the claim/lawsuit of Paladin Aviation, Inc., against the City of San Diego, as a result of on-going lease disputes.

Herring/Griffith/Means

Aud. Cert. 2500509.

NOTE: The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

FILE LOCATION: MEET

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

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

ITEM-S403: Agreement with Macias, Gini & Company, LLP for Audit Services for the City of San Diego Fiscal Year 2004 Financial Statements.

(See City Manager Report No. CMR-04-258.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-626) ADOPTED AS RESOLUTION R-299905

Authorizing the City Manager, for the reasons set forth in City Manager's Report No. 04-258, to negotiate and execute, a sole source agreement with Macias, Gini, & Company, LLP, in an amount not to exceed \$715,479 for audit services for the City of San Diego Fiscal Year 2004 financial statements (Agreement) for the scope of services set forth in Attachment A to City Manager's Report No. 04-258;

Authorizing the City Auditor and Comptroller to appropriate an amount not to exceed \$11,555 from the EGF 1/3, Fund No. 105051 fund balance into Dept. No. 9321, Org. No. 2004, for audit services provided for the Open Space Bond Interest and Redemption Fund for Fiscal Year 2004, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$715,479 from accounting information provided in Box 8 of this 1472 (See attachment A for distribution of funds) for the purpose of providing funds for the above referenced Agreement, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

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

Aud. Cert. 2500525.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:31 p.m. – 3:59 p.m.)

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

ITEM-S404: Avalon Plaza.

(Continued from the meeting of November 23, 2004, Item 331, at the request of Councilmember Zucchet for further review.)

Matter of the appeal by Mayfair Homes, Inc., of the decision by the Planning Commission in denying the request for the waiver of undergrounding of utilities in connection with the Avalon Plaza project. Planning Commission approved the project on June 10, 2004, however they denied the request for the waiver of undergrounding of utilities. Avalon Plaza is an application for a Coastal Development Permit, Planned Development Permit and Tentative Map to construct a three-story mixed use building, to total approximately 47,595 square feet of gross floor area, with 24 two-bedroom residential units, 13 first floor commercial units, and a subterranean parking garage on a 24,883 square foot property. The project site is located at 924-936 Hornblend Street, between Cass Street and Bayard Street, within the CC-4-2 Zone, Coastal Overlay Zone, Coastal Height Limit Overlay Zone, Beach Parking Impact Overlay Zone and within the Pacific Beach Community Plan Area.

(See City Manager Report CMR-04-248. Pacific Beach Community Plan Area. District 2.)

NOTE: Hearing open. No testimony taken on 11/23/2004.)

CITY MANAGER'S RECOMMENDATION:

Adopt the resolution in subitem A; and adopt the resolution in subitem B to grant the appeal and grant the permits; and adopt the resolution in subitem C to grant the map and the waiver of undergrounding:

Subitem-A: (R-2005-) ADOPTED AS RESOLUTION R-299906

Adoption of a Resolution certifying Mitigated Negative Declaration Project No. 13862, and adopting the Mitigation, Monitoring and Reporting Program (MMRP).

Subitem-B: (R-2005-) GRANTED APPEAL; GRANTED PERMITS ADOPTED AS RESOLUTION R-299907

Adoption of a Resolution granting or denying the appeal and granting or denying Coastal Development Permit No. 29920, and Planned Development Permit No. 29921, with appropriate findings to support Council action.

Subitem-C: (R-2005-) GRANTED MAP AND WAIVER OF
UNDERGROUNDING WITH AMENDMENTS;
ADOPTED AS RESOLUTION R-299908

Adoption of a Resolution granting or denying Tentative and Waiver of Undergrounding No. 29944, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on June 10, 2004, voted 5-0 to approve the CDP/PDP and Tentative Map and to deny the Waiver of Undergrounding, along with staffs modifications that were read into the record; no opposition.

Ayes: Lettieri, Chase, Garcia, Ontai, Otsjusi

Abstaining: Steele

Not present: Schultz

The Pacific Beach Community Planning Committee has recommended approval of this project.

CITY MANAGER SUPPORTING INFORMATION:

The 24,883 square foot project site is currently vacant and fenced off. In the past, the site had been used as an open commercial parking lot, not tied to or containing required parking for any surrounding development. Surrounding the project site are predominately commercial land uses with some mixed-use. The project site is located at 924-936 Hornblend Street, on the north side of Hornblend just south of Garnet Avenue, between Cass Street and Bayard Street, within the CC-4-2 Zone, Coastal (non-appealable) Overlay Zone, Coastal Height Limit Overlay Zone, Beach Parking Impact Overlay Zone and within the Pacific Beach Community Plan Area. The proposed grading, construction, and subdivision all constitute, by definition, Coastal Development, which pursuant to the Land Development Code (Section 126.0702) requires a Coastal Development Permit. A Tentative Map is required, by the Land Development Code (Section 144.0202), for the proposed consolidation of the seven existing lots into a one lot subdivision for 24 condominium units. The applicant requested the Planned Development Permit in order that the project design can be reviewed for conformance as a transit-oriented development, which would allow for the increased residential density of up to 43 dwelling units per acre.

FISCAL IMPACT: None.

Loveland/Halbert/GRG

LEGAL DESCRIPTION:

The project site is located is located at 924-936 Hornblend Street within the Pacific Beach Community Planning Area and is more particularly described as Lots 27 thru 34 of Block 224 of Pacific Beach, Map Nos. 697 and 854.

Testimony in favor by Lynne Heidel and Patrick Gorgas.

FILE LOCATION: LUP-Avalon Plaza 11/23/04 (65)

COUNCIL ACTION: (Time duration: 4:09 p.m. – 4:30 p.m.)

MOTION BY ZUCCHET TO ADOPT THE ITEM AS AMENDED TO: 1) ADOPT THE RESOLUTION IN SUBITEM A; 2) ADOPT THE RESOLUTION IN SUBITEM B TO GRANT THE APPEAL AND GRANT THE PERMITS; 3) ADOPT THE RESOLUTION IN SUBITEM C TO GRANT THE MAP AND THE WAIVER OF UNDERGROUNDING WITH AMENDMENTS; 4) DIRECT THE CITY MANAGER TO FORM AN ACCOUNT BY WHICH THE DEVELOPER AGREES TO PAY \$49,000 FOR FUTURE UNDERGROUNDING WITHIN BLOCK 2V UPON ISSUANCE OF A CERTIFICATE OF OCCUPANCY IN ADDITION TO THE AMOUNT OF IMPROVEMENTS TO UTILITIES LINES; 5) EXAMINE THE WEAKNESS FOR WAIVERS IN COUNCIL POLICY 600-25; 6) REVISIT THE SURCHARGE PROGRAM; 7) INCORPORATE AN “IN LIEU FEE”; 8) REFER THE ISSUE TO RULES COMMITTEE; AND 9) REQUEST THAT STAFF BEGIN TO REFLECT IN THE HOUSING IMPACT STATEMENTS THE NUMBERS OF UNITS, IN LIEU FEES, AND INCLUSIONARY HOUSING. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S405: Charlotte Nielsen Day.

(Continued from the meeting of November 22, 2004, Item 110, at the request of Deputy Mayor Atkins, in order for Charlotte Nielsen to be present.)

DEPUTY MAYOR ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-544) ADOPTED AS RESOLUTION R-299888

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: 2:42 p.m. – 2:48 p.m.)

MOTION BY ATKINS 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-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 4:45 p.m. in honor of the memory of:

Edward B. Meyer as requested by Mayor Murphy.

**Minutes of the Council of the City of San Diego
for the Regular Meeting of Monday, November 29, 2004**

Page 46

FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Time duration: 4:43 p.m. – 4:45 p.m.)