

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, JANUARY 31, 2005
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:10 p.m. Mayor Murphy recessed the meeting at 3:52 p.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 4:06 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 5:20 p.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 5:30 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 6:52 p.m. immediately into Closed Session in the twelfth floor conference room to discuss meet and confer items.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour/Maland (pr)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

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

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Pastor Stephen Krueger of the Grace Evangelical Lutheran Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Atkins.

FILE LOCATION: MINUTES

ITEM-30: Erik Judson Day.

DEPUTY MAYOR ZUCCHET'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-739) ADOPTED AS RESOLUTION R-301786

Recognizing and commending Erik Judson for his efforts to make Downtown a better place to live, work, and play;

Proclaiming January 31, 2005, to be "Erik Judson Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:36 p.m. – 2:44 p.m.)

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

CLOSED SESSION ITEMS:

CS-1 Title: City Auditor and Comptroller

REFERRED TO CLOSED SESSION ON MONDAY, JANUARY 31, 2005

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:07 p.m. – 4:07 p.m.)

Mayor Murphy closed the Hearing.

CS-2 Title: City Manager

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

REFERRED TO CLOSED SESSION ON MONDAY, JANUARY 31, 2005

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:07 p.m. – 4:07 p.m.)

Mayor Murphy closed the Hearing.

CS-3 Agency negotiators: Lamont Ewell, Cathy Lexin, Mike McGhee

REFERRED TO CLOSED SESSION ON MONDAY, JANUARY 31, 2005

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

DCA 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, and 3) retirement benefits, including the recommendations from the Pension Reform Committee. The City Manager and staff will request instructions from the City Council as to those matters.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:07 p.m. – 4:10 p.m.)

CLOSED SESSION COMMENT:

CS-3 COMMENT:

Comment by Bill Bradshaw regarding an editorial in the Union Tribune and the City General Fund.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:07 p.m. – 4:10 p.m.)

* ITEM-50: Amending the San Diego Municipal Code Relating to Signs.

CITY ATTORNEY'S RECOMMENDATION:

Introduce the following ordinance:

(O-2005-84) INTRODUCED, TO BE ADOPTED ON MONDAY,
FEBRUARY 14, 2005

Introduction of an Ordinance amending Chapter 9, Article 5, Division 1, by amending Section 95.0107; amending Chapter 12, Article 9, Division 7, by amending Section 129.0731; and amending Chapter 12, Article 9, Division 8, by amending Section 129.0808, all relating to signs.

SUPPORTING INFORMATION:

City Council action is requested to amend Chapters 9 and 12 relating to signs. These minor changes will correct a drafting error contained in an amendment to the sign regulations adopted on January 13, 2004, so that the text reads as intended and states that sign permit application decisions will be made in a definite time period.

Aguirre/Ewell

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:21 p.m.)

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

* ITEM-100: Construction of the El Cajon Boulevard Median Improvements - Texas to 30th Street.

(North Park Community Area. District 3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-757) ADOPTED AS RESOLUTION R-300080

Amending the Fiscal Year 2005 Capital Improvements Program (CIP) Budget for CIP-39-201.0, El Cajon Boulevard Median Improvements, by increasing the budget amount by \$70,000;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$70,000 from Fund 79502, North Park DIF, in CIP-39-201.0, solely and exclusively, for the purpose of constructing the El Cajon Boulevard Median Improvements – Texas to 30th Street;
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 El Cajon Boulevard Median Improvements: Texas to 30th Street Project, CIP-39-201.0, is the final phase of construction for improvement of the medians between Park Boulevard and I-805 in North Park. Plans and specifications were completed and signed by the City Engineer in 1997 with oversight by the El Cajon Boulevard Business Improvement District. However, funding for construction did not become available until a HUD 108 loan was obtained by Council District 3 in late 2002. At this juncture, Pountney and Associates engineering firm was hired to update the plans and specifications and the project was advertised for bids in August 2004. Bids were received on September 24, 2004.

The low bidder, Zondiros Corporation, was rejected because they did not include DBE subcontractors in their bid and failed to provide an adequate documentation of their good faith effort to do so. The second lowest bidder was certified for award, however, there was not enough funding available in the FY 2005 CIP-39-201.0 budget (El Cajon Boulevard Median Improvements) to provide for an adequate contingency and the costs of providing a Resident Engineer during construction.

It is estimated that \$70,000 will be needed to fund all project costs during construction. The current Council Action would increase the FY 2005 CIP-39-201.0 Budget for El Cajon Boulevard Median Improvements: Texas to 30th Street Project, by \$70,000, in North Park DIF Fund 79502 and authorize the Auditor and Comptroller to appropriate and expend \$70,000 in CIP-39-201.0 for the construction of the El Cajon Boulevard Median Improvements: Texas to 30th Street Project. The previous allocation to the El Cajon Boulevard Median Improvements: Texas to 30th Street Project was \$1,099,716. This action will add \$70,000, making the total project cost \$1,169,716.

FISCAL IMPACT:

Current action would increase the FY 2005 CIP Budget for CIP-39-201.0, El Cajon Boulevard Median Improvements: Texas to 30th Street Project by \$70,000 and authorize appropriation and expenditure of \$70,000 in Fund 79502, North Park DIF for CIP-39-201.0 for construction of the El Cajon Boulevard Median Improvements: Texas to 30th Street Project.

Herring/Cunningham/SHM

Aud. Cert. 2500637.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:21 p.m.)

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

ITEM-101: Library Department Facility Improvements.

(See City Manager Report CMR-05-022. Citywide.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-758) TRAILED TO TUESDAY, FEBRUARY 1, 2005

Authorizing the City Auditor and Comptroller to transfer \$316,757 from CIP-35-102.0, Balboa Branch Library; \$346,926 from CIP-35-096.0, Mission Hills Branch Library; and \$536,317 from CIP-35-104.0, North Park Branch Library, Fund 102216, Main Library Fund, to CIP-35-071.0, College Heights-Rolando Branch Library;

Authorizing the additional expenditure of an amount not to exceed \$1,200,000 from CIP-35-071.0, College Heights-Rolando Library, for completion of the project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Manager, upon receipt of the HUD 108 loan into CIP-35-087.0, Otay Mesa/Nestor Branch Library, to take the following actions: (1) reduce the replenishment of interim funds authorized pursuant to Resolution No. RR-298894, from \$750,000 to \$450,000 from Fund 102216, Main Library Fund, CIP-35-087.0 Otay Mesa/Nestor Branch Library; and (2) redirect the \$450,000 replenishment of funds from CIP-35-100.0, Ocean Beach Branch Library, to CIP-35-104.0, North Park Branch Library, 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 an increase of \$300,000 in Fund 102216, Main Library Fund, in CIP-35-087.0, Otay Mesa/Nestor Branch Library, for the purpose of providing funds for the project and related costs;

Authorizing the additional expenditure of \$300,000 from CIP-35-087.0, Otay Mesa/Nestor Branch Library, solely and exclusively, for 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 are, or will be on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to replenish the borrowed funds from CIP-35-102.0, Balboa Branch Library, CIP-35-096.0, Mission Hills Branch Library, CIP-35-100.0, Ocean Beach Branch Library, and CIP-35-104.0, North Park Branch Library, Fund 102216, when the first library bond issuance occurs;

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

Aud. Cert. 2500668.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:17 p.m.)

- * ITEM-102: Lease Agreement with MIC Limited for the Metropolitan Wastewater Department Interim Parking of Trucks and Equipment Located at 5515 Kearny Villa Road.

(Kearny Mesa Community Area. District 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-756) ADOPTED AS RESOLUTION R-300081

Authorizing the City Manager to execute a 1-year lease agreement with MIC Limited, a Michigan corporation, for approximately 30,300 square feet of an existing parking lot located at 5515 Kearny Villa Road as interim parking for additional trucks and equipment required for the Metropolitan Wastewater Department's Sewer Main Cleaning Program, as more particularly described under the terms and conditions set forth in that lease agreement;
Authorizing the expenditure of \$34,320 for the second half of FY 2005, \$70,013 for FY 2006, \$72,813 for FY 2007, and \$37,121 for the first half of FY 2008, for a total amount not to exceed \$214,267 from Fund 41506, Dept. 733, Org. 241 and 242 (50 percent each), Object Account 4682, Job Order 2901, for the purpose of funding the lease 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.

CITY MANAGER SUPPORTING INFORMATION:

In September 2001, City Council approved funding for the Metropolitan Wastewater Department, Wastewater Collection Division to acquire additional staff and equipment in order to embark on a major sewer main cleaning program over the ensuing two years. A January 2002, City Council action provided funding and authorization for the City Manager to enter into a two-year lease, with MIC Limited (Landlord), for approximately 30,300 sq. ft. of an existing parking lot located at 5515 Kearny Villa Road for the purpose of providing interim parking for additional vehicles and equipment necessary for the proposed sewer main cleaning program at a rental rate of \$5,150 per month. The approved lease included an option to extend the lease for one additional year at an increased rental rate of \$5,500 per month. The original two-year lease was effective January 1, 2002, was extended for one additional year effective January 1, 2004, expired on December 31, 2004, and has been placed in a month-to-month "holdover" status pending Council authorization of a new lease. There is a continuing need for the Wastewater Collection Division to lease the parking lot for at least one additional year to support the sewer main cleaning program.

This action provides funding and authorization for the City Manager to enter into a new one-year agreement with MIC Limited to continue leasing the parking lot for the purpose stated above. The leased area is enclosed by a fence to protect the vehicles and equipment from possible theft or vandalism and for safety reasons.

TERM: One (1) year commencing on January 1, 2005, and ending on December 31, 2005.

RENT: \$5,720 per month. The rent rate is comparable to that charged for other improved parking lots in the market area and represents a four percent (4%) increase in the rental rate currently in effect.

OPTIONS TO EXTEND: Upon mutual agreement of both the Landlord and the City, the City has two (2) options to extend the lease for one (1) additional year, for each option exercised, at rental rates of \$5,948.80 and \$6,186.75 per month, respectively.

USE: Parking of Vehicles and Equipment.

SIZE: Approximately 30,300 sq. ft. of improved parking lot facilities.

FISCAL IMPACT:

Funding for the FY 2005 portion of the lease agreement is available within the MWWD Wastewater Collection Division FY 2005 Budget.

Herring/Griffith/FLR

Aud. Cert. 2500669.

FILE LOCATION: LEAS-MIC Limited, a Michigan Corporation

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:21 p.m.)

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

ITEM-103: Fire and Lifeguard Project Update and Consultant Amendments.

(See City Manager Report CMR-05-025. Citywide.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-762) TRAILED TO TUESDAY, FEBRUARY 1, 2005

Authorizing the City Auditor and Comptroller to appropriate and expend \$818,726 from Fire and Lifeguard Bond Proceeds Interest Earnings, Fund No. 92110, to CIP-33-098.0, Major Components;

Authorizing the City Manager to prioritize expenditures and reallocate funding for the Project within CIP-33-098.0, Major Components, to ensure that proper repairs are completed for the Project;

Authorizing the City Manager to execute a First Amendment Agreement with WLC Architects for the design of CIP-33-090.0, Mission Valley Fire Station No. 2, in the amount of \$216,290, and CIP-33-090.1, Mission Valley Mini Park, in the amount of \$86,420;

Authorizing the City Auditor and Comptroller to expend \$216,290 from CIP-33-090.0, Mission Valley Fire Station No. 2, and \$86,420 from CIP-33-090.1, Mission Valley Mini Park, for the purpose of executing a First Amendment to Agreement with WLC Architects for the design of CIP-33-090.0, Mission Valley Fire Station No. 2;

Authorizing the City Manager to execute a Second Amendment Agreement with CCBG Architects, Inc. for consultant services related to the construction of CIP-33-103.0, San Ysidro Fire Station No. 29, in an amount of \$33,000;

Authorizing the City Auditor and Comptroller to expend \$33,000 from CIP-33-103.0, San Ysidro Fire Station No. 29, for the purpose of executing a Second Amendment to Agreement with CCBG Architects, Inc., for consultant services related to the construction of CIP-33-103.0, San Ysidro Fire Station No. 29;

Authorizing the City Manager to execute a Second Amendment to the Agreement with Joseph Wong Design Associates for consulting services related to construction of CIP-33-081.0, Lincoln Park Fire Station No. 12, in an amount not to exceed \$45,000;

Authorizing the City Auditor and Comptroller to expend \$45,000 from CIP-33-081.0, Lincoln Park Fire Station No. 12, for the purpose of executing

a Second Amendment to Agreement with Joseph Wong Design Associates for consulting services related to the construction of CIP-33-081.0, Lincoln Park Fire Station No. 12;

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

Aud. Cert. 2500675.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:17 p.m.)

* ITEM-104: Two actions related to Revision to the Torrey Highlands Transportation Phasing Plan.

(See City Manager Report No. CMR-05-021. Torrey Highlands Community Area. District 1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-754) ADOPTED AS RESOLUTION R-300082

Approving and adopting the proposed changes to the Torrey Highlands Transportation Phasing Plan, as described in the City Manager Report No. CMR-05-021.

Subitem-B: (R-2005-751) ADOPTED AS RESOLUTION R-300083

Stating for the record that the information contained in the final Environmental Impact Report, including any comments received during the public review process, has been previously reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of the proposed changes to the Torrey Highlands Transportation Phasing Plan;

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.

FILE LOCATION: SUBITEMS A & B: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:21 p.m.)

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

- * ITEM-105: Grant Application to California Integrated Waste Management Board for City of San Diego Solid Waste Local Enforcement Agency (LEA) Waste Tire Enforcement Program.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-744) ADOPTED AS RESOLUTION R-300084

Authorizing the City Manager to accept and expend funds from the Waste Tire Enforcement grant program per the application, which has already been submitted to the California Integrated Waste Management Board for review;

Authorizing the City Manager and/or his designee to conduct negotiations, execute and submit all documents, including but not limited to applications, grant agreements, amendments and payment requests which may be necessary to carry out and administer the City's obligations, responsibilities and duties under the terms and conditions of the grant;

Authorizing the City Auditor and Comptroller to create a separate fund for the monies.

CITY MANAGER SUPPORTING INFORMATION:

The California Integrated Waste Management Board (CIWMB) is offering waste tire enforcement grant monies to local agencies in the implementation of a statewide program.

The Solid Waste Local Enforcement Agency (LEA) has been the recipient of five prior waste tire enforcement grants. The non-competitive grant funds will be available for implementing ongoing inspection, surveillance, enforcement and other activities and projects designed to prevent illicit tire disposal and to assure a high level of compliance with applicable state laws and regulations.

The LEA is requesting grant funds to continue implementing an effective waste tire enforcement program to provide regulatory guidance to waste tire businesses and, when necessary, take enforcement action to remedy threats to public health and safety and the environment. The program also includes outreach to the regulated community through the development and distribution of literature and public presentations to stakeholder groups. \$215,198 is being requested.

During previous grant cycles, the LEA has discovered illegal operating procedures in tire shops and franchised waste haulers and brought violations into compliance. The LEA has provided a model waste tire enforcement program that has been recognized and duplicated throughout the state. Also, the grant has been a springboard for obtaining other grant monies for cleaning up waste tires and trash in the Tijuana River Valley and for coordinating broader environmental issues with federal, state, and local agencies in the United States and Mexico.

Approval of this resolution will allow the LEA's waste tire enforcement program to continue serving the community without interruption.

Not a matching grant.

Loveland/Halbert/WP

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:21 p.m.)

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

* ITEM-106: Grant Application to United States Department of Justice, Office of Community Oriented Policing Services, for San Diego Police Department's Criminal Records Management System.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-706) ADOPTED AS RESOLUTION R-300085

Authorizing the Chief of Police to submit an application accept, expend and manage the grant funds and program to improve the ability to expand and enhance the San Diego Police Department's Criminal Records Management System;

Declaring this authority includes the execution of all aspects of fund and program operation, including any amendments, extensions, or renewals of this grant and to certify that the City will comply with all applicable statutory or regulatory requirements;

Declaring that this authorization shall be valid for a period of up to five years, provided funding for this purpose is made available by the Federal government;

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

CITY MANAGER SUPPORTING INFORMATION:

SDPD has been selected to receive a Congressional Appropriation grant of approximately \$98,948 under the United States Department of Justice, Office of Community Oriented Policing (COPS) Technology 2004 Program.

The purpose of the funds is to enhance the San Diego Police Department's Criminal Records Management System through the adaptation and development of a unique approach to Information Technology lifecycle management by using a modular, integrated system for client and mobile management, asset management, and server management.

SDPD has now implemented Automated Field Reporting Citywide. Every patrol officer has been equipped with a laptop, and is using the AFR software to complete crime and arrest reports. We elected to deploy AFR early in our development so that officers would have the benefits of this new technology. As the balance of the overall vision is being completed, officers are receiving the new tools and training to utilize those features. CRMS is being developed to accommodate additional, increasingly complex functions.

Presently, as we deploy these new CRMS components on an incremental basis. Changes, fixes, patches and enhancements to existing laptop hardware and software, reports,

templates, etc., must be made one laptop at a time, either by officers bringing their laptops to the Data Systems Unit at Headquarters, or by Data Systems personnel going into the field. This cumbersome system limits or ability to provide the developments to officers in an efficient, cost-effective manner. This grant will enable us to complete these functions remotely, greatly expediting upgrades and officer access to new capabilities, and reducing the amount of staff time and resources required for these changes.

FISCAL IMPACT:

Funds will be used for development, workstations, training and personnel overtime expenses. There is no requirement for matching funds, and no requirement to continue expenditures or services after grant funds have been depleted or terminated. Federal law requires that these funds supplement and not supplant funds otherwise available to law enforcement.

Ewell/Lansdowne/DJW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:21 p.m.)

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

- * ITEM-107: Grant Application to the United States Department of Justice, National Institute of Justice (NIJ), to Improve Efficiency of the DNA Analytical Process, Expand Storage Capacity for Biological Evidence and Improve Access to Information Technology.

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-708) ADOPTED AS RESOLUTION R-300086

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

Authorizing the Chief of Police to execute all aspects of program operation, including any contracts, amendments, extensions, or renewals, and to certify

that the City will comply with all applicable statutory or regulatory requirements related to this program;

Declaring that any resources received hereunder shall not be used to supplant expenditures controlled by this body, and any personnel positions funded hereunder shall not be subject to hiring freezes.

CITY MANAGER SUPPORTING INFORMATION:

The proposed grant will assist the DNA unit of the San Diego Police Department Crime Laboratory in making investments to expand testing capacity in order to effectively manage backlogs. Capacity will be improved by making investments in instrumentation to improve the efficiency of the DNA analytical process, expand the storage capacity for biological evidence, and improve the analysts' access to information technology. The efficiency improvements will come specifically from the implementation of real-time polymerase chain reaction (PCR), through purchase of equipment to alleviate current bottlenecks in our procedures.

Specifically, we will purchase the following:

1. Two real-time PCR instruments to provide DNA quantitation data, which will require less hands-on time in the process, increase the sensitivity of the test, and allow for detection of inhibitors in samples tested.
2. A second PCR amplification hood (we currently have one) which will allow two analysts to simultaneously set up amplifications for either DNA quantitation with real-time PCR or short tandem repeats (STRs)
3. Four computers, two digital cameras, one color laser printer and one black and white copier which will alleviate our laboratory's current bottlenecks at the data management steps of DNA analysis.
4. A processing mill that will rapidly and safely pulverize bone samples, which is a necessary step in preparation for DNA profiling of bone evidence.
5. Refrigerators and freezers which will be needed to accommodate the increase in incoming biological samples.

The goal of this grant project is to increase the laboratory's throughput capacity in terms of DNA casework, and complete the work in a timely manner. Our objectives are to:

1. Increase the monthly average case screening output by 10%, to 9 cases per month.
2. Increase the monthly average number of DNA cases completed by 10%, to 43 cases per month.
3. Decrease the turnaround time for DNA analysis (time from submission of case to generation of a lab report).

FISCAL IMPACT:

This grant will provide \$137,581 over a one-year period. The grant requires no matching funds, and there is no requirement to continue grant-funded services or activities after grant funds are expended.

Ewell/Lansdowne/DJW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:21 p.m.)

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

* ITEM-108: Grant Application to National Institute of Justice for Backlogged Forensic DNA Casework.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-707) ADOPTED AS RESOLUTION R-300087

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

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

Declaring any resources received hereunder shall not be used to supplant expenditures controlled by this body, and any personnel positions funded hereunder shall not be subject to hiring freezes.

CITY MANAGER SUPPORTING INFORMATION:

The proposed grant will assist the DNA unit of the San Diego Police Department Crime Laboratory in reducing approximately 160 backlogged homicide cases where DNA testing might prove critical to solving the case. Our expectation and goal is to reduce this backlog by 25% in this year of the grant.

Additionally, we seek to use this grant to work a significant number of "lesser felony" cases such as auto theft, assault, and burglary cases. We propose overtime spending for our laboratory technician to oversee the Police Department's Field Evidence Technician Program (those who collect evidence in the lesser felony cases) and to equip them with training and supplies they need to do proper evidence collection in those cases.

Finally, funds are requested to purchase additional Identifier DNA typing kits for backlogged cases; Y-STR typing kits to implement male-specific DNA testing; and real-time PCR kits for improved quantitation. Limited funds are requested to outsource certain evidence from cold case homicides for mitochondrial testing.

The goal of this grant project is to have a significant impact on reducing the backlog of cases facing our DNA Laboratory, and to be in a better position to handle the backlog in the future. The specific objectives of this grant project are to:

1. Reduce the number of backlogged unsolved homicide cases from 160 to 120.
2. Analyze the DNA evidence in 100 lesser felony cases.
3. Improve the quality of evidence submitted on the lesser felony cases.

FISCAL IMPACT:

This grant will provide \$155,697 over a one-year period. The grant requires no matching funds, and there is no requirement to continue grant-funded services or activities after grant funds are expended.

Ewell/Lansdowne/DJW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:21 p.m.)

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

* ITEM-109: Dakota Canyon Accelerated Sewer Replacement and Rehabilitation Project.

(Clairemont Community Area. District 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-527) CONTINUED TO MONDAY, FEBRUARY 14, 2005

Authorizing the City Manager, or designee, to expend an amount not to exceed \$120,000 from Fund No. 41506, CIP-46-206.0, Annual Allocation-Accelerated Projects, for the acquisition, appraisal, title, escrow, city staff labor charges, and miscellaneous costs of the acquisition of property rights required for the Dakota Canyon Sewer Replacement project, provided that the City Auditor and Comptroller first furnishes a certificate certifying that funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Manager, or his designee, to execute, for and on behalf of the City of San Diego, quitclaim deeds, conveying all the City's right, title, and interest in the unneeded easements in those portions of Lot 7, Eureka Lemon Tract, Map 753, filed May 19, 1953; Lots 1 and 2, Bowman's Terrace, Map 3295, filed September 7, 1955; and Lots 17 and 18, Padre Glen, Map 6977, filed July 8, 1977. Execution and recordation of the quitclaim deeds shall only occur following the filing of the Notice of Completion for the Dakota Canyon Accelerated Sewer Replacement and Rehabilitation Project, CIP-46-611.0;

Stating for the record that the final Mitigated Negative Declaration, Project No. 7055, has been reviewed and considered prior to approving the project; and that it directs the City Clerk to file a Notice of Determination.

CITY MANAGER SUPPORTING INFORMATION:

The Dakota Canyon Accelerated Sewer Replacement and Rehabilitation Project is a part of the City of San Diego's on-going program to rehabilitate, upgrade, and/or relocate sewers that are in canyons. The subject sewer is located in the bottom of a streambed in Dakota Canyon, and due to its location, it is difficult to access for maintenance. Also, due to severe erosion in the streambed, the pipe has been exposed and emergency repairs have been required by City crews to prevent sewage from entering the natural storm drain system.

This project will relocate the pipe out of the streambed, and place it in a new alignment higher up the slope, thereby eliminating the hazards caused by the on-going erosion. In

addition, it will solve the access problem by providing an 8-foot-wide access path for maintenance purposes, with ingress and egress to come from the Erie Street dedicated right-of-way. Project construction will consist of the installation of approximately 695 linear feet of new 8-inch sewer main, and the rehabilitation of 520 linear feet of existing 8-inch sewer main. Once the new sewer main is put into service, 1,310 linear feet of existing 51-year-old, 8-inch sewer main will be physically abandoned, with all piping, which is currently exposed to be completely removed from the canyon area. The easement rights related to this section of sewer line are to be abandoned and reconveyed by the City to the respective property owners, through the execution and recordation of quitclaim deeds.

This action will allow for the authorization of funds to acquire the easement rights necessary to complete the project, and it will authorize the quitclaiming and abandonment of the easement rights no longer necessary following project completion.

FISCAL IMPACT:

\$120,000 is available in Fund 41506, CIP-46-206.0, Annual Allocation - Accelerated Projects.

Herring/Griffith/SLG

Aud. Cert. 2500574.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:21 p.m.)

CONSENT MOTION BY MADAFFER TO CONTINUE THIS ITEM TO MONDAY, FEBRUARY 14, 2005, AT THE REQUEST OF COUNCIL MEMBER FRYE FOR FURTHER REVIEW. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-110: Approving the Final Map of Costa Del Sol Unit No. 2.

(Pacific Highlands Ranch Community Area. District 1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-738) ADOPTED AS RESOLUTION R-300088

Approving the Final Map of Costa Del Sol Unit No. 2.

CITY MANAGER SUPPORTING INFORMATION:

This map proposes the subdivision of 3.464 acres into a total of 27 lots, including 19 numbered lots (18 for residential development and one lot to be conveyed after the map records to the Sandra L. McDowell Barczewski Trust under a Memorandum of Conveyance Agreement and irrevocable escrow instructions) plus 8 lettered building restricted easement lots. This subdivision is located in the Pacific Highlands Ranch Community Plan area, southerly of Carmel Valley Road adjacent to Rancho Santa Fe Farms Road in Council District 1.

This map requires City Council approval because a drainage easement and streets are being vacated on the map. The drainage easement was granted by separate instrument at no cost to the City, and the City has no fee interest. The easement has never been used, and there is no future or anticipated use for the easement in its current location. The streets being vacated pursuant to Resolution No. R-294664 were also granted at no cost to the City and the City has no fee interest.

The public improvements required in connection with this map are shown on Engineering Drawing No. 31072-D, for which a bond in the amount of \$1,991,065 has been posted and an agreement entered into to assure completion.

Subdivider has entered into a Deferred Improvement Agreement for the Del Mar Heights Pipeline Relocation and the Carmel Valley Road Half-Width Improvements, for which a bond in the amount of \$1,550,223 has been posted. All other public improvements required in connection with this final map have been assured in conjunction with Costa Del Sol Unit No. 1.

Staff has determined that this map is consistent with all previously approved permits, and the City Engineer has approved the map.

Loveland/Broughton/GRB

FILE LOCATION: LUP – COSTA DEL SOL UNIT NO. 2, APPROVING
FINAL MAP (65)

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:21 p.m.)

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

* ITEM-111: Karen Peterson Day.

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-741) ADOPTED AS RESOLUTION R-300089

Proclaiming the day of January 15, 2005, to be “Karen Peterson Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:21 p.m.)

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

* ITEM-112: William Diehl Day.

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-743) ADOPTED AS RESOLUTION R-300090

Declaring January 31, 2005, to be “William Diehl Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:21 p.m.)

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

ITEM-113: State of California Regional Water Quality Control Board vs. City of San Diego Settlement.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-702 Cor. Copy) ADOPTED AS AMENDED AS RESOLUTION
R-300091

Authorizing the City Manager to pay the total sum of \$1.2 million in the settlement of each and every claim against the City of San Diego, its agents and employees, in U.S. District Court Case No. 03-CV-1381-B, State of California v. City of San Diego, et al. resulting from the allegations of sewer system overflows;

Authorizing the City Auditor and Comptroller in accordance with the above settlement, to establish an interest bearing escrow account in an amount not to exceed \$500,000 from Sewer Revenue Fund No. 41506 to be used for funding water quality related monitoring in San Diego Bay and Mission Bay, as directed by the Regional Water Quality Control Board;

Authorizing the City Auditor and Comptroller to issue four checks in the amount not to exceed \$1.2 million in full settlement of the lawsuit and of all claims, to be paid in the following manner:

1. A check for Two Hundred Thousand Dollars (\$200,000) payable to the State Water Resources Control Board Cleanup and Abatement Account;
2. A check for Two Hundred Sixty Thousand Dollars (\$260,000) payable to the Southern California Coastal Water Research Project, to be used for

conducting a Regional Board sediment toxicity source analysis water quality project in Chollas Creek;

3. A check for Five Hundred Thousand Dollars (\$500,000) payable to the interest bearing escrow account established above, to be used for funding water quality related monitoring in San Diego Bay and Mission Bay as directed by the Regional Board; and

4. A check for Two Hundred Forty Thousand Dollars (\$240,000) payable to the San Diego Conservancy, to be used for funding water quality related projects within the San Diego River Watershed.

Declaring that said funds are to be payable from Sewer Revenue Fund No. 41506.

CITY MANAGER SUPPORTING INFORMATION:

In July of 2003, the State of California (Regional Water Quality Control Board) [Regional Board] filed Case No. 03-CV-1381-B against the City of San Diego alleging repeated violations of the Clean Water Act due to sewer system overflows. The Mayor and City Council directed the City Attorney and City Manager to negotiate a potential settlement to resolve the allegations without expensive litigation. During the negotiations, the City experienced on February 22, 2004, a large sewer spill in Florida Canyon.

A potential settlement has been forwarded to the Regional Board that settles all claims in the lawsuit as well as all spills through October 1, 2004.

The scope and elements of the settlement were presented and approved in Closed Session on April 26, 2004. The Auditor's Certificate was not available at that time, therefore this resolution is necessary to confirm the settlement terms and authorize the settlement amount of 1.2 million dollars.

Mendes/Tulloch/WJH

Aud. Cert. 2500625.

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: 2:35 p.m. – 2:36 p.m.)

MOTION BY FRYE TO ADOPT THE RESOLUTION AS AMENDED TO ADD THE WORD "RIVER" TO SAN DIEGO CONSERVANCY IN NUMBER 4 OF THE RESOLUTION AS CORRECTED BY MAYOR MURPHY. NUMBER 4 WILL READ AS FOLLOWS: "A CHECK FOR TWO HUNDRED FORTY THOUSAND DOLLARS (\$240,000.00) PAYABLE TO THE SAN DIEGO RIVER CONSERVANCY, TO BE USED FOR FUNDING WATER QUALITY RELATED PROJECTS WITHIN THE SAN DIEGO RIVER WATERSHED." Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-114: Congregation Beth Israel Day.

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-742) ADOPTED AS RESOLUTION R-300092

Warmly, welcoming, and commending Congregation Beth Israel for its many decades of service to our community and Rabbi Paul Citrin to our community; and

Proclaiming Friday, December 3, 2004, to be "Congregation Beth Israel Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:21 p.m.)

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

ITEM-200: Payment of Attorney's Fees for City Witnesses in Connection with U.S. Attorney's Office Investigation into Financial Matters.

(See City Attorney Report dated 12/21/2004.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-736) ADOPTED AS RESOLUTION R-300093

Authorizing the City Attorney to execute agreements with one or more lawyers or law firms to provide representation to any past and present City officials and employees related to their participation in interviews or proceedings, including compliance with subpoenas served on any past or present City officials and employees, related to the investigation by the United States Attorney's Office and the Federal Bureau of Investigation;

Authorizing the expenditure of an amount not to exceed \$75,000, from Fund No. 81140, for the purpose of paying attorney's fees for the representation of any past and present officials and employees related to the interviews and proceedings described above, 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;

Declaring the authorization for the above attorney's fees is to be suspended if criminal charges are brought against any such past or present official or employee, and that the City shall reserve its right to terminate the payment of fees and seek reimbursement of fees paid in the event that criminal charges are brought against any official or employee, or if a conviction is obtained.

SUPPORTING INFORMATION:

In February of 2004, the Securities and Exchange Commission (SEC) and the U.S. Attorney's Office, informed the City that they were undertaking investigations into certain financial disclosure practices by the City. These investigations are ongoing and recently, certain City employees have been asked to participate in interviews with the Federal Bureau of Investigations and have been subpoenaed to appear before a Federal Grand Jury.

In order to facilitate the conduct of necessary interviews and to cooperate with the ongoing investigations, and yet provide necessary advice to affected City officials and employees, the City Council must exercise its discretion vested by Government Code Section 995.9 to determine whether it is in the best interests of the City to provide independent representation to certain identified City officials and employees. The City Attorney Report dated December 21, 2004 regarding the payment of legal fees for current and former City employees in connection with the SEC proceedings is attached for reference. The total cost

of the representation is not to exceed \$75,000, and will be apportioned among affected officials and employees. It is recommended that the City Attorney execute and monitor the contracts on behalf of the City. It is also recommended that the City reserve its right to terminate the payment of fees and seek reimbursement of fees paid in the event that criminal charges are brought against any official or employee, or if a conviction is obtained.

Aguirre/Ewell

Aud. Cert. 2500664.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:16 p.m. – 4:23 p.m.)

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

ITEM-S400: Anthony Lettieri Day.

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-771) ADOPTED AS RESOLUTION R-300094

Recognizing Anthony Lettieri for his service as Chairperson on the City of San Diego's Planning Commission;

Proclaiming January 31, 2005, to be "Anthony Lettieri Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:23 p.m. – 2:34 p.m.)

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

* ITEM-S401: Grant Application to California Office of Traffic Safety (OTS) for Time Reduction of Motor Personnel (TROMP) Program.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-768) ADOPTED AS RESOLUTION R-300095

Authorizing the Chief of Police to submit an application, accept, expend and manage the grant funds and program, to provide equipment which will enhance the ability of motor officers to enforce traffic related laws;

Declaring that this authority includes the execution of all aspects of fund and program operation, including any amendments, extensions, or renewals of this grant; and to certify that the City will comply with all applicable statutory or regulatory requirements;

Declaring that this authorization shall be valid for a period of up to five years, provided funding for this purpose is made available by the state government;

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

CITY MANAGER SUPPORTING INFORMATION:

The California Office of Traffic Safety (OTS) is funding the San Diego Police Department's "Time Reduction of Motor Personnel" (TROMP) Grant. With the grant funds of \$411,415, the San Diego Police Department will utilize its current staff of motor officers to expand traffic speed enforcement, and to expedite collision investigations.

SDPD motor officers conduct collision investigations during daylight hours. This grant will allow the Department to equip the motor officers with long-range lasers that can be used for both speed enforcement and collision scene documentation. Along with the laser, each motor officer will be issued a hand-held computer with collision scene documentation software.

The objectives of the project are: 1) To increase the number of enforcement contacts made by officers by 5% each of the two years the grant is in effect; and 2) To reduce the time spent by officers on collision scene documentation by 25%. By reducing the time spent on collision scene documentation, officers will be able to spend more time on traffic safety issues and vehicle code violation enforcement.

FISCAL IMPACT:

This OTS grant will provide \$411,415 for officer overtime for expanded traffic speed enforcement activities, and to purchase equipment to expedite collision scene documentation performed by motor officers.

There is no requirement for matching funds. However, SDPD intends to contribute approximately \$137,750 over the three-year grant period, to be met from its regular budget, in staff time to this project. There is no requirement to continue expenditures, services or activities after grant funds are terminated.

NOTE: The matching resources, in the form of staff time, and any other potential SDPD contribution toward the operation of the project in future fiscal years are contingent on approval of the relevant future City budgets.

Ewell/Lansdowne/DJW

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:21 p.m.)

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

ITEM-S402: Consideration of Nominees for Appointments to the San Diego Unified Port District Board of Commissioners.

(See memorandums from Mayor Murphy and Councilmember Zucchet dated 12/6/2004, Councilmember Peters dated 12/7/2004, Deputy Mayor Atkins dated 11/15/2004, Councilmember Maienschein dated 11/30/2004, Councilmember Frye dated 1/13/2005, and Councilmember Madaffer dated 12/6/2004 with resumes attached.)

(Continued from the meeting of January 24, 2005, Item 110, at the request of Mayor Murphy in order to correct a docketing error that did not comply with Council Rules.)

MAYOR MURPHY'S RECOMMENDATION:

Consider the following list of nominees and select **two** to fill the vacancies on the San Diego Unified Port District Board of Commissioners:

NOMINEE

NOMINATED BY

Kouros Hangafarin,
(appointment)

Mayor Murphy, Councilmember Zucchet,
Councilmember Peters, Councilmember
Maienschein, and Councilmember Madaffer

Peter Q. Davis
(reappointment)

Councilmember Frye

Sylvia C. Rios
(reappointment)

Mayor Murphy and Councilmember Zucchet

Susan E. Atkins
(appointment)

Councilmember Atkins

TODAY'S ACTION IS:

(R-2005-740 Cor. Copy 2) ADOPTED AS RESOLUTION R-300096

Adoption of a Resolution making **two** appointments to the San Diego Unified Port District Board of Commissioners for a term ending January 2, 2009.

NOTE: Council Policy 000-13, as amended on 12-3-84, provides for the following procedure:

1. Mayor calls on each candidate whose name appears on the docket as a nominee to make a presentation to the Council in support of his/her candidacy for appointment (maximum of 3 minutes presentation each).
2. The Mayor calls on members of the Council to ask brief questions of any of the candidates concerning either the presentation or matters contained in their application filed with the City.
3. The City Clerk provides ballots to the Council and each Councilmember votes for the candidates he/she feels to be most qualified for each vacancy and returns the ballots to the City Clerk. Each Councilmember has one vote per vacancy.
4. The candidates receiving the highest number of votes (minimum of five) shall be appointed to the vacancies.

5. If no candidates receive a minimum of five votes, balloting continues until there are sufficient candidates receiving a majority to fill those vacancies. In a tie among the top vote getters, those candidates run off for the vacancies. If an insufficient number of candidates receive a majority of votes to fill all vacancies, a run off will be held among the remaining candidates to fill the remaining vacancies.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 3:52 p.m.)

City Clerk Chuck Abdelnour announced the results of the balloting as follows:

Total of 7 votes for nominee Kourosch Hangafarin; a total of 1 vote for nominee Peter Q. Davis; a total of 8 votes for nominee Sylvia Rios; and a total of 2 votes for nominee Atkins.

Mayor Murphy announced that Kourosch Hanagafarin and Sylvia Rios have been appointed.

MOTION BY COMMON CONSENT TO ADOPT THE RESOLUTION TO CONFIRM AND APPOINT KOUROSH HANGAFARIN, AND SYLVIA RIOS TO THE SAN DIEGO UNIFIED PORT DISTRICT BOARD OF COMMISSIONERS. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S403: In the Matter of Payment of Attorney's Fees for the Mayor and City Council Members in Connection with the Securities and Exchange Commission and U.S. Attorney's Office Investigations into Financial Matters.

TODAY'S ACTION IS:

NOTED AND FILED

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:11 p.m. – 4:12 p.m.)

ITEM-S404: In the matter of waiving the attorney-client privilege with respect to communications between the City Attorney's Office, outside legal counsel, and officers and employees of the City regarding document production in response to production requests and subpoenas received from the Securities and Exchange Commission, and the U.S. Attorney's Office.

(See memorandum from Councilmember Madaffer dated 01/25/2005.)

(Continued from the meeting of January 25, 2005, Item 601, at the request of the City Council, for further review.)

TODAY'S ACTION IS:

DISCUSSION HELD

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:28 p.m. – 5:16 p.m.)

MOTION BY FRYE TO WAIVE THE ATTORNEY-CLIENT PRIVILEGE WITH RESPECT TO COMMUNICATIONS BETWEEN THE CITY ATTORNEY'S OFFICE, OUTSIDE LEGAL COUNSEL, AND OFFICERS AND EMPLOYEES OF THE CITY REGARDING DOCUMENT PRODUCTION. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S405: In the Matter of U.S. Securities and Exchange Commission (SEC) Compliance and City Records.

A. City compliance with U.S. Securities and Exchange Commission (SEC) and other subpoenas.

- B. Seizure of documents from the Offices of the City Treasurer and City Auditor and Comptroller.
- C. Purging of files by the City Treasurer's Office.

TODAY'S ACTION IS:

REPORT RECEIVED

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:26 p.m. – 6:52 p.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 6:52 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 6:52 p.m.)