

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, FEBRUARY 1, 2005  
AT 9:00 A.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Mayor Murphy at 10:10 a.m. The meeting was recessed by Mayor Murphy at 10:16 a.m. to convene the Housing Authority. Mayor Murphy reconvened the meeting at 10:17 a.m. with Council Member Inzunza not present. Mayor Murphy recessed the meeting at 11:07 a.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 11:20 a.m. with all Council Members present. Mayor Murphy recessed the meeting for the noon break at 11:59 a.m.

The meeting was reconvened by Mayor Murphy at 2:04 p.m. with Council Member Inzunza not present. Mayor Murphy recessed the meeting at 4:06 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 4:20 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 5:35 p.m. into Closed Session immediately following the regular meeting 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) 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 (er/gS)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-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-not present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on the withholding of income tax from employees' pay checks.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:17 a.m. – 10:19 a.m.)

PUBLIC COMMENT-2:

Jarvis Ross commented on the mayoral form of government.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:22 a.m.)

**PUBLIC COMMENT-3:**

Sandy Summers commented on domestic terrorists.

FILE LOCATION: AGENDA

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

**PUBLIC COMMENT-4:**

Phil Hart commented on pension fund problems.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:28 a.m.)

**PUBLIC COMMENT-5:**

Ron Boshun commented on Council's actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:28 a.m. – 10:32 a.m.)

**PUBLIC COMMENT-6:**

Bert Decker commented on Council's attitude.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:32 a.m. – 10:36 a.m.)

PUBLIC COMMENT-7:

Kevin Hauck informed Council about a San Diego Police Department pilot project to reduce crime in neighborhoods by bringing problem alcohol sales establishments into compliance with state and local laws.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-8:

Kathleen Blavatt commented on Sports Arena public land.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:43 a.m.)

PUBLIC COMMENT-9:

John Chen commented on the Yanti, China resolution.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:43 a.m. – 10:46 a.m.)

PUBLIC COMMENT-10:

Petra Barajas saluted Donna Frye.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:46 a.m. – 10:50 a.m.)

PUBLIC COMMENT-11:

Daniel Coffey commented on the City Attorney's conflict of interest.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:50 a.m. – 10:53 a.m.)

PUBLIC COMMENT-12: REFERRED TO THE CITY MANAGER

Muhammed Abdullah requested information on the investigation of his complaint regarding police tactics.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:53 a.m. – 10:58 a.m.)

PUBLIC COMMENT-13: REFERRED TO THE CITY MANAGER

Joe Williams commented on and requested an investigation into the arrest of Carly Del So Sveda and Janice Jordan.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:58 a.m. – 11:05 a.m.)

PUBLIC COMMENT-14:

Lyle Rocky Neptune expressed his concern regarding police actions towards citizens demonstrating their dissent.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:05 a.m. – 11:07 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:                    REFERRED TO THE CITY ATTORNEY

Council Member Frye requested to hear, in Closed Session, the action taken by the Retirement Board to ban Diane Shippione from their closed session meetings. The action was not noticed on their open session agenda.

FILE LOCATION:                    MINUTES

COUNCIL ACTION:                    (Time duration: 11:21 a.m. – 11:28 a.m.)

COUNCIL COMMENT-2:

Deputy Mayor Zucchet announced that next Monday, February 7, MEA will kick off a week-long blood drive in the City Administration Building lobby. Mr. Zucchet encouraged everyone to participate. Mr. Zucchet asked the City Attorney when the Conger lawsuit will be docketed for Closed Session and when the SDCERS lawsuit will be discussed.

FILE LOCATION:                    MINUTES

COUNCIL ACTION:                    (Time duration: 11:24 a.m. – 11:28 a.m.)

COUNCIL COMMENT-3:

Council Member Young expressed his concern regarding gang violence and the preservation of San Diego's youth.

FILE LOCATION:                    MINUTES

COUNCIL ACTION:                    (Time duration: 11:28 a.m. – 11:31 a.m.)

CITY MANAGER COMMENT:

None.

**CITY ATTORNEY COMMENT:**

Assistant City Attorney Girard announced that in Closed Session, the City Council voted to: 1) Not seek an appeal of the attorney's fees awarded in the case of Gleason v. the City of San Diego, with a vote of 9 to 0; and 2) with respect to a public employment matter, to waive the rule regarding transcription of an interview of a potential candidate for City employment, with a vote of 8 to 0, with District 2 absent.

FILE LOCATION: MINUTES

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

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) ADOPTED AS AMENDED AS RESOLUTION R-300103

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: MEET

COUNCIL ACTION: (Time duration: 4:20 p.m. – 5:01 p.m.)

MOTION BY ATKINS TO ADOPT THE RESOLUTION AS AMENDED TO: 1) CHANGE THE WORDS “WHEN THE FIRST LIBRARY BOND ISSUANCE OCCURS” TO “TO PROVIDE FOR ANY REPAYMENT OUT OF ANY APPROPRIATE FUNDING SOURCE AS IDENTIFIED BY THE CITY MANAGER;”

AND 2) DIRECT STAFF TO PURSUE STATE AND FEDERAL LEGISLATION TO ENABLE DEVELOPMENT IMPACT FEES AND THE USE OF THOSE FEES TO EXPAND FACILITIES. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, 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) ADOPTED WITH DIRECTION AS RESOLUTION  
R-300104

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: MEET

COUNCIL ACTION: (Time duration: 4:20 p.m. – 5:02 p.m.)

MOTION BY ATKINS TO ADOPT THE RESOLUTION WITH DIRECTION TO STAFF TO: 1) PURSUE STATE AND FEDERAL LEGISLATION TO ENABLE DEVELOPMENT IMPACT FEES AND THE USE OF THOSE FEES TO EXPAND FACILITIES; 2) REQUEST PLANNING FOR A LIFEGUARD STATION AT LA JOLLA COVE WHICH IS AT 60 PERCENT DESIGN AND NEEDS \$40,000 TO BE READY FOR BID; AND 3) REQUEST PLANNING FOR A LIFEGUARD STATION

AT THE CHILDREN'S POOL WHICH NEEDS \$15,000 TO GET THROUGH THE COMMUNITY PROCESS. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



**ITEM-330:** Two actions related to a Street Vacation - Portion of Black Mountain Road and Carmel Valley Road.

(Pacific Highlands Ranch Community Plan Area. District 1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2005-709) ADOPTED AS RESOLUTION R-300097

Adoption of a Resolution approving the Street Vacation No. 132570 and vacating the easement portions of Black Mountain Road and Carmel Valley Road.

Subitem-B: (R-2005-710) ADOPTED AS RESOLUTION R-300098

Adoption of a Resolution certifying that the information contained in the LDR File No. 99-1294 and 46796 have been completed in compliance with the California Environmental Quality Act (CEQA) and State CEQA Guidelines; and that said MEIR Findings reflect the independent judgment of the City of San Diego as Lead Agency; and that pursuant to section 15179(a) of the State CEQA Guidelines, no substantial changes have occurred with respect to the circumstances under which the MEIR was certified, and there is no new available information which was not known and could not have been known at the time the

MEIR was certified; and stating for the record that the MEIR Findings have been reviewed and considered prior to approving the street vacation; and adopting the project-specific Mitigation, Monitoring and Reporting Program;

That pursuant to California Public Resource Code section 21157.1 and California Code of Regulations section 15177, the City Council adopts the following findings:

- a) that the Pacific Highlands Ranch Units 2-4 project, which includes a street vacation, was considered within the scope of analysis in the MEIR.
- b) that the implementation of the street vacation would not result in any additional significant effects on the environment beyond those identified in the MEIR, as defined in Subdivision (d) of section 21158 of the Public Resource Code, and as such, the proposed project would not require additional mitigation measures and/or alternatives analysis.
- c) that the proposed street vacation is considered to be within the scope of analysis of the Sub-area Plan as examined by the MEIR and no new environmental document or findings pursuant to section 21081 of the Public Resources Code are required.
- d) that pursuant to section 21157.6 of the Public Resources Code, no substantial changes have occurred with respect to the circumstances under which the MEIR was certified or that no new information, which was not known and could not have been known at the time the MEIR was certified as complete, has become available.

**CITY MANAGER SUPPORTING INFORMATION:**

Council action is requested to vacate a portion of Black Mountain Road and Carmel Valley Road where these portions are no longer required due to a new alignment and reconfiguration of the roads. The streets are located within the Pacific Highlands Ranch Subarea III within Council District 1.

There is no officially recognized community-planning group in the Pacific Highlands Ranch area as it is a new and developing community. The Carmel Valley Community Planning Board acts in an advisory capacity as the adjacent community. On October 12, 2004, the Carmel Valley Community Planning Board voted unanimously to support the street vacation.

The street vacation qualifies as a summary action and no Planning Commission recommendation is required. The street vacation does not contain public facilities that would be affected by the vacation; existing franchise facilities will be rerouted; the area of the vacation will be no longer needed with the new improvements of Black Mountain Road and Carmel Valley Road; and is not required for present or future use.

Staff recommends the City Council APPROVE Street Vacation No. 132570.

**FISCAL IMPACT:**

No cost to the City. All costs are recovered through a deposit account funded by the applicant.

Ewell/Halbert/JSF

FILE LOCATION: STRT – J 2969 (39)

COUNCIL ACTION: (Time duration: 10:12 a.m. – 10:13 a.m.)

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



ITEM-331: YWCA Transitional Housing Facility.

Matter of approving, conditionally approving, modifying or denying an application for a Conditional Use Permit amending Conditional Use Permit No. 168-PC, Site Development Permit and Easement Abandonment to demolish the existing buildings and construct a 16,169 square foot transitional housing facility. The facility will include an administration building and fourteen dwelling units housed in two structures. The 0.62-acre site is located between Soledad Mountain Road and Pico Street, within the Pacific Beach Community Plan.

(Revised Final MND Project No. 44721/CUP No. 127054/SDP No. 142713/Amendment to CUP No. 168-PC/Easement Vacation No. 142714/Project No. 44721. Pacific Beach Community Plan Area. District 2.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the resolutions in subitems A and C; and adopt the resolution in subitem B to grant the permits:

Subitem-A: (R-2005-733) ADOPTED AS RESOLUTION R-300099

Adoption of a Resolution certifying that the information contained in Mitigated Negative Declaration Project No. 44721, 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 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 a conditional use permit, site development permit, and easement abandonment for the YWCA Transitional Housing Facility;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is approved;

That pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference;

That the City Clerk is directed 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.

Subitem-B: (R-2005- ) GRANTED PERMITS, ADOPTED AS RESOLUTION R-300100

Adoption of a Resolution granting or denying Conditional Use Permit No. 127054/Site Development Permit No. 142713, Amendment to Conditional Use Permit No. 168-PC, with appropriate findings to support Council action.

Subitem-C: (R-2005-734) ADOPTED AS RESOLUTION R-300101

Adoption of a Resolution ordering vacated together with a revestment of access rights for Soledad Mountain Road the portion of Easement Abandonment No. 142714 located within the Pacific Beach Community Plan area in connection with

Conditional Use Permit No. 127054 and Site Development Permit No. 142713, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20260-B, marked as Exhibit "B," and on file in the office of the City Clerk are by this reference incorporated herein and made a part hereof;

That said easement abandonment is conditioned upon approval and issuance of Conditional Use Permit No. 127054 and Site Development Permit No. 142713. In the event this condition is not completed within two years following the adoption of this resolution, then this resolution shall become void and be of no further force or effect;

That the City Engineer shall advise the City Clerk of the completion of the aforementioned condition and the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the office of the County Recorder;

That the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the office of the County Recorder.

**OTHER RECOMMENDATIONS:**

The Pacific Beach Community Planning Board on August 23, 2004, voted 13-1-0 to recommend approval of the proposed project.

**SUPPORTING INFORMATION:**

This is a request for a Conditional Use Permit to allow the demolition of the existing buildings and construction of a 16,169 square foot Transitional Housing site. The project will include an administration building and fourteen two bedroom dwelling units housed in two structures. Approval of this project would amend Conditional Use Permit No. 168-PC which was issued to the YWCA in 1968 for operation of a Program Center at this location. A Transitional Housing facility project does not require a Planning Commission recommendation. This project is being processed through the Affordable/In-Fill Housing and Sustainable Building Expedite Program. The project provides affordable housing and sustainable buildings per Council Policies 600-27 and 900-14. Project approvals include a Site Development Permit and Easement Vacation. Affordable/In-Fill Housing projects may request a deviation from the applicable development regulations pursuant to a Site Development Permit. The project proposes two Deviations; one

for a Floor Area Ratio total of 0.6 where 0.45 would be required, and the second for six bay window architectural projections into the required rear yard setback where two would be allowed. The project includes the vacation of a sewer easement traversing the site and relocation of the sewer main to Garnet Avenue. The easement has been superseded by relocation and there are no other public facilities located within the easement.

**FISCAL IMPACT:**

None with this action. All Development Services Department processing costs are recovered by a deposit account funded by the applicant.

**HOUSING IMPACT:**

This project will create fourteen (14) two-bedroom units for victims fleeing domestic violence. The State of California financing program that has approved this project for state funds require that 30% of the units are to provide affordability to extremely low income families and the remaining 70% of the units are to be affordable to very-low income families. This requirement would result in five units affordable at 30% or less of the AMI (\$16,450 for a family of two) and nine units affordable at 50% or less of the AMI (\$27,400 for a family of two). However, the YWCA intends to provide an even greater affordability with all 14 units affordable at 30% of the Area Median Income (AMI). Therefore, the Rental Income and the Pro Forma have been calculated to reflect all 14 units affordable at 30% AMI for a more realistic analysis.

**ENERGY IMPACT:**

This project will meet the sustainable buildings requirement by providing roof-mounted photovoltaic systems consisting of solar panels sufficient to generate at least 50 percent of the proposed project's projected energy consumption.

Ewell/Halbert/DM

**LEGAL DESCRIPTION:**

The project site lies within the RS-1-7 Zone, the Coastal Height Limit Overlay Zone, and within the Pacific Beach Community Plan area.

FILE LOCATION: Subitems A and B: LUP – YWCA Transitional Housing Facility, 02/01/05 (65)  
Subitem C: DEED F-9884

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:16 a.m.)

MOTION BY ZUCCHET TO ADOPT THE RESOLUTIONS IN SUBITEMS A AND C; AND ADOPT THE RESOLUTION IN SUBITEM B TO GRANT THE PERMITS. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-332: Street Vacation - Portion of Fay Avenue.

(La Jolla Community Plan Area. District 1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-434 Cor. Copy) RETURNED TO THE CITY MANAGER

Vacating a portion of Fay Avenue, reserving there from a general utility together with ingress and egress for that purpose.

**CITY MANAGER SUPPORTING INFORMATION:**

The vacation of a portion of Fay Avenue has been requested by Mario Spiazzi, the adjoining property owner at 6111 La Jolla Boulevard. The street segment proposed for vacation is unimproved. This part of Fay Avenue was acquired by the City of San Diego in 1958 and in 1960 for a proposed street between La Jolla Boulevard and Nautilus Street. The street was not constructed and this part of Fay Avenue will not be utilized for right of way purposes.

Mr. Spiazzi owns two lots adjacent to this part of Fay Avenue. One lot is vacant and the other lot is occupied by a single-family residence. These lots are substandard size because parts of these lots were acquired for the proposed Fay Street extension. When the street is vacated, the land underlying this part of Fay Avenue will be City owned property unencumbered by the street easement.

In a land exchange with the City, (a companion action before the City Council), one of Mr. Spiazzi's substandard lots will be exchanged for the vacated part of City owned Fay Avenue adjacent to Mr. Spiazzi's second lot. When the exchange is completed and the street vacated, the two lots will each then be full size. One new full size lot will belong to Mr. Spiazzi and one full size lot will belong to the City of San Diego. Along with the vacated street, the lot size retained by Mr. Spiazzi would be increased from 4,184 to 7,350 square feet. The vacated street along with Mr. Spiazzi's second lot would increase the City property from 5,828 to 7,350 square feet.

The local community planning group, the La Jolla Community Planning Association voted in favor of the street vacation 10 yes, 0 no, 1 abstention. Since this application has been in process for many years, the community-planning group was re-contacted and upheld the original vote.

**FINDINGS:** Staff review has indicated that the right-of-way to be vacated may be summarily vacated and that the four required findings for vacation can be made.

1. That there is no prospective use for the right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated – The Fay Avenue extension is no longer being considered. A utility easement will be reserved for an existing SDG&E facility.
2. That the public will benefit from the action through improved utilization of land made possible by the street vacation – The vacated street and land exchange will create a City owned full size lot that is usable and more valuable than the current substandard City owned property.
3. That the vacation is not inconsistent with the General Plan, an approved Community Plan or the Local Coastal Program – La Jolla Community Planning Association recommends approval of the street vacation.
4. That the facility for which the right-of-way as originally acquired will not be detrimentally affected by the street vacation – There are no present or future plans to construct a street in this area.

**FISCAL IMPACT:**

None. All costs are paid for by the applicant.

**DEVELOPMENT SERVICES DEPARTMENT'S RECOMMENDATION:**

Approval of this request.

Loveland/Broughton/AKW

**NOTE:** This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15061(b)(3).

**NOTE:** See Item 333 on today's docket for a companion item.

**FILE LOCATION:** STRT – J 2968 (39)

**COUNCIL ACTION:** (Time duration: 10:11 a.m. – 10:12 a.m.)

ITEM-333: Exchange of Properties with Spiazzi Family Trust.

(La Jolla Community Area. District 1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-635 Cor. Copy) RETURNED TO THE CITY MANAGER

Authorizing the City Manager, or his designee, to exchange the City's property consisting of 0.07 acres described as that portion of vacated Fay Avenue, being a portion of Lot 6 in Block 18 of La Jolla Hermosa, Map 1810 for the property owned by the Spiazzi Family Trust consisting of 0.03 acres described as that portion of Lot 7 in Block 18 of La Jolla Hermosa, Map 1810, and a payment by the Spiazzi Family Trust to the City of \$183,000;

Authorizing the City Manager, or his designee, as part of the property exchange, to execute a grant deed conveying to the Spiazzi Family Trust fee title in a vacated portion of Fay Avenue, being a portion of Lot 6 in Block 18 of La Jolla Hermosa, Map 1810;

Authorizing the City Manager, or his designee, as part of the property exchange, to accept a grant deed from Spiazzi Family Trust conveying to City fee title in a portion of Lot 7 in Block 18 of La Jolla Hermosa, Map 1810, and to accept payment of \$183,000 to be deposited in General Capital Outlay Fund No. 302453.

**CITY MANAGER SUPPORTING INFORMATION:**

In 1958 and 1959, the City purchased portions of residential lots between La Jolla Boulevard and La Jolla Hermosa Avenue for the future extension of Fay Avenue. The extension was dedicated as public street, but the extension was never built and the project was entirely abandoned in 1997. Most of the existing improvements on the portions of these residential lots acquired by the City in the 1950s were never removed by either the City or the homeowners. In the case of the Spiazzi Family Trust residence, the City acquired and dedicated as street the entire backyard, including the detached garage. These improvements were never removed and have continued to be used by various owners of the residence to this day.

The Spiazzi Family Trust contacted the City about vacating the street and buying back the rest of its lot to eliminate the cloud on title and make the lot whole again.

The Spiazzi Family Trust also owns a portion of the vacant lot next door to its residence with the City owning the balance of the lot. The City's portion is unimproved street right of way that requires a street vacation. By including the City's portion in the street vacation and exchanging the Spiazzi's portion of the vacant lot to the City for the City's portion of the Spiazzi residence, the Spiazzi Family Trust will then have full ownership of its lot and the City will have full ownership of the entire adjacent lot, which is a buildable lot valued at \$700,000. The exchange will not affect the nearby La Jolla Methodist Church property and is consistent with Council Policy 700-10, which permits exchanges to correct site deficiencies.

The value of the 0.07-acre parcel to be conveyed to Spiazzi Family Trust is \$328,000. The value of the 0.03-acre parcel to be conveyed to the City is \$145,000, leaving a difference of \$183,000 which the Spiazzi Family Trust will pay the City. The values were determined by independent fee appraisal in September 2004 and approved by City staff. The Spiazzi Family Trust is paying all costs in this transaction, including appraisal, street vacation, mapping, title, and escrow. The proposed street vacation and land exchange will be presented to Council as companion items.

**FISCAL IMPACT:**

\$183,000 will be deposited into the General Capital Outlay Fund 302453.

Herring/Griffith/PTC

**NOTE:** See Item 332 on today's docket for a companion item.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:11 a.m. – 10:12 a.m.)



ITEM-334: Right to Know Committee Recommendations.

(See Right to Know Committee Recommendations Report No. RTK-1 dated 07/23/2004.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-769) ADOPTED WITH DIRECTION AS RESOLUTION  
R-300105

Accepting the recommendations in the Right to Know Committee Report No. RTK-1, dated July 23, 2004.

**RIGHT TO KNOW COMMITTEE'S RECOMMENDATION:**

On 05/27/2004, 6/16/2004, and 6/23/2004, RTK voted to accept actions included in the Right to Know Committee final report:

1. **Final adoption of the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings for consideration by the Rules, Finance, and Intergovernmental Relations Committee** (June 23, 2004, meeting)

Action: to adopt and recommend for consideration as a permanent rule by the Rules, Finance, and Intergovernmental Relations Committee the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings with the caveat that Councilmember Madaffer does not support Section IV: *Transcript of Closed Sessions* of the temporary rule. (See RTK-1, Attachment 1 for the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings.)

Vote: 3-0; Frye-yea, Atkins-yea, Madaffer-yea

2. **Serial Meetings** (June 23, 2004, meeting)

Action: to adopt language from Section 54952.2 of the Ralph M. Brown Act to be incorporated into Chapter 2 of the San Diego Municipal Code that would clarify the Brown Act's prohibition of serial meetings. (See RTK-1, Attachment 2 for recommended language.)

Vote: 3-0; Frye-yea, Atkins-yea, Madaffer-yea

3. **Non-Agenda Public Comment** (June 23, 2004, meeting)

Action: to adopt the proposed language amending Rule 8 (Non-Agenda Public Comment) of the San Diego Municipal Code, Chapter 2, Article 2, Division 1. (See RTK-1, Attachment 3 for recommended language.)

Vote: 3-0; Frye-yea, Atkins-yea, Madaffer-yea

4. **Right To Know Committee Regular Meetings** (June 23, 2004, meeting)

Action: to continue meeting as the Right To Know Committee on an as needed basis, but no less than once a year to discuss issues regarding the advancement of open government in San Diego.

Vote: 3-0; Frye-yea, Atkins-yea, Madaffer-yea

5. **Public's Ability To Obtain Documents** (June 16, 2004, meeting)

Action: to direct the City Clerk's Office to enhance sections of the City Clerk's website related to requests for public documents, change the "Date of Request" form to be more specific, add fact sheets about how to file a public records request, post a list of records management liaisons/coordinators on the website for each city department, board and commission, add informational language to the City Council docket on how to file a public records request, provide a specific timeframe to those who file a public records request as to when the documents requested will be provided, that public documents be made available in a meaningful and understandable way and that documents that are lengthy and/or controversial be distributed one (1) additional week before the City council meeting that will consider the item.

Vote: 2-0; Frye-yea, Atkins-yea, Madaffer-not present

**6. Noticing of Meetings and Supplemental Agenda Items (May 27, 2004, meeting)**

Action: to direct the City Clerk to include a section on the fourteen-seventy-two-form (the document required to be submitted to the City Clerk by a City department for an issue to be included on the City Council agenda) and supplemental agenda documents that would provide a concise synopsis explaining why the item was docketed as supplemental and to report back on how to better notice supplemental items to the public and that supplemental items should only be used with the greatest discretion and care and be used only when the normal docketing process cannot be accommodated.

Vote: 2-0; Frye-yea, Madaffer-yea, Atkins-not present

**7. Conduct further research regarding the extension the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings to all Boards and Commissions associated with the City of San Diego (June 23, 2004, meeting)**

Action: to refer this issue for further research to the City Attorney and City Manager and to return to the RTK Committee no later than six (6) months from June 23, 2004, with a report that includes the following items:

1. Assess the level of responsibility of each board and commission.
2. Determine the costs associated with applying stronger Brown Act requirements.
3. Investigate how more public input from the various boards and commissions can be included in the discussion of this issue.
4. Evaluate extending noticing requirements to ad-hoc committees associated with the City of San Diego.

Vote: 3-0; Frye-yea, Atkins-yea, Madaffer-yea

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 4:06 p.m.)

MOTION BY FRYE TO ADOPT THE RESOLUTION WITH DIRECTION TO ACCEPT THE FINAL RIGHT TO KNOW COMMITTEE RECOMMENDATIONS AND DIRECT THE CITY ATTORNEY TO RETURN NO LATER THAN FEBRUARY 8, WITH THE APPROPRIATE ORDINANCES FOR FINAL ADOPTION OF THE SAN DIEGO CITY COUNCIL TEMPORARY RULE FOR NOTICING AND

CONDUCT OF CLOSED SESSION MEETINGS: 1) INCLUSION OF THE RECOMMENDED LANGUAGE IN THE MUNICIPAL CODE PERTAINING TO SERIAL MEETINGS; 2) INCLUSION OF THE RECOMMENDED CHANGES IN THE MUNICIPAL CODE PERTAINING TO NON-AGENDA PUBLIC COMMENT; 3) ADOPTION OF CHANGES IN CITY PROCEDURES PERTAINING TO THE PUBLIC'S ABILITY TO OBTAIN DOCUMENTS; 4) ADOPTION OF THE RECOMMENDED CHANGES IN CITY PROCEDURES PERTAINING TO THE NOTICING OF MEETINGS AND SUPPLEMENTAL AGENDA ITEMS WITH THE ADDITION OF THE WORDS "FOR THE LENGTHY OR CONTROVERSIAL DOCUMENTS" ADD "TO THE MAXIMUM EXTENT PRACTICABLE;" 5) REFER THE MATTER OF EXTENDING THE TEMPORARY RULE FOR NOTICING AND CONDUCT OF CLOSED SESSION MEETINGS TO ALL BOARDS AND COMMISSION ASSOCIATED WITH THE CITY OF SAN DIEGO TO A FUTURE GOVERNMENT & EFFICIENCY OPENNESS COMMITTEE MEETING; AND 6) REFER MR. STUMP'S COMMENTS THAT WRITTEN COMMUNICATIONS SUBMITTED TO ELECTED OFFICIALS BE SIMULTANEOUSLY SUBMITTED TO THE CITY CLERK, AND THAT LABOR UNION REPRESENTATIVES OF CITY EMPLOYEES BE COVERED BY THE CITY'S LOBBYIST DISCLOSURE CLAUSE. 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.

**ADDITIONAL BUSINESS:**

Direction was given during consideration of Item 334 the Right to Know Committee Recommendations, a regular business item.

MOTION BY PETERS TO DIRECT THE CITY ATTORNEY TO DRAFT AND RETURN NEXT WEEK WITH A PROPOSED AMENDMENT TO RULE 8A (NON-AGENDA PUBLIC COMMENT) THAT WOULD GIVE TWO VERSIONS. ONE VERSION WOULD HOLD PUBLIC COMMENT AT THE END OF THE TUESDAY SESSION, AND THE SECOND VERSION WOULD HOLD PUBLIC COMMENT AT THE END OF THE TUESDAY SESSION OR 4:00 P.M. WHICHEVER IS EARLIER. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-S500: Two actions related to Payment of the Fiscal Year 2005 Retiree Health Care Balance.

(See City Manager Report No. CMR-05-023.)

(Continued from the meeting of January 25, 2005, Item S500, Subitem B, at the request of the City Council, for further review.)

**CITY MANAGER'S RECOMMENDATION:**

Introduction and adoption of the ordinance in Subitem A, and adoption of the resolution in Subitem B:

Subitem-A: (O-2005-86 Cor. Copy)                      INTRODUCED AND ADOPTED AS  
ORDINANCE O-19354 (New Series)

Amending Ordinance No. O-19301 (new series), as amended, entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 2004-2005 and Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year," by increasing General Fund appropriations in an amount not to exceed \$4.1 million of surplus General Fund revenue and increasing Non-General Fund department appropriations in an amount not to exceed \$2.4 million to fund the unfunded portion of the Fiscal Year 2005 retiree health care liability.

**NOTE:** See Item S500, Subitem A, on Tuesday, January 25, 2005, for the first public hearing. Today's action is the second public hearing and the introduction and adoption of the Ordinance, pursuant to the San Diego City Charter Sections 16, 17, and 71.

Subitem-B: (R-2005-760 Cor. Copy)                      ADOPTED AS RESOLUTION R-300102

Authorizing the City Auditor and Comptroller to: (i) increase General Fund appropriations from projected sales tax revenues in excess of estimates in an amount not to exceed \$4.1 million of surplus General Fund revenue and increase Non-General Fund department appropriations from fund balances or reserves in an amount not to exceed \$2.4 million to fund the unfunded portion of the Fiscal Year 2005 retiree health care liability; and (ii) transfer an amount not to exceed \$6.5 million from contributing funds to the Retirement Fund (as set forth in

Attachment A to this Resolution) for the purpose of providing funds to cover retirement health care expenditures in excess of available amounts in the 401(h) account, as described in City Manager Report No. 05-023;

Authorizing the expenditure of an amount not to exceed \$6.5 million from the Retirement Fund, for the purpose of providing funds to cover retirement health care expenditures.

**CITY MANAGER SUPPORTING INFORMATION:**

In City Manager's Report 04-218, dated September 30, 2004, the City Manager discussed support for the recommendation of the Pension Reform Committee that retiree health care benefits no longer be funded in a manner that reduces assets of the retirement fund. Based upon current projections of monthly health care insurance premiums, the cost of retiree health care will be \$14.4 million in Fiscal Year 2005. The balance remaining in the 401(h) health care trust fund is approximately \$7.9 million, which will be exhausted mid-January 2005, leaving an estimated \$6.5 million to be covered by other sources for retiree health care costs. It is the City Manager's recommendation that this amount be paid by City departments proportionally based upon employee counts.

Irvine/Vattimo/Villa

Aud. Cert. 2500674.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:31 a.m. – 11:51 a.m.)

MOTION BY MADAFFER TO INTRODUCE, DISPENSE WITH THE READING, AND ADOPT THE ORDINANCE IN SUBITEM A, AND ADOPT THE RESOLUTION IN SUBITEM B. Second by Frye. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-S501: Proposed Amendments to the City's Land Development Code and Local Coastal Program.

Matter of considering approval, modification, or denial of a proposal to amend the City's Land Development Code to clarify that the definition of "Applicant" (Land Development Code Section 113.0103) and "Application Process" (Land Development Code Section 112.0102) includes any project proposal with a City Council/Redevelopment Agency approved and executed Disposition and Development Agreement (DDA).

The proposed action will also require approval of an amendment to the City of San Diego's Local Coastal Program. Final approval of the proposed Land Development Code Amendment is subject to certification by the California State Coastal Commission. As such, the amendment does not become effective within the City's recognized coastal zone boundaries until final certification by the Coastal Commission has occurred.

(See City Manager Report CMR-05-011. City-wide.)

(Continued from the meeting of January 25, 2005, Item 337, at the request of Councilmember Frye, due to a lack of time.)

**NOTE**: The hearing is open. No testimony was taken on January 25, 2005.

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2005-83)                   INTRODUCED, TO BE ADOPTED ON MONDAY,  
FEBRUARY 14, 2005

Introduction of an Ordinance amending Chapter 11, Article 2 and Chapter 11, Article 3 of the San Diego Municipal Code by amending Division 1, Section 112.0102 and 113.0103.

**OTHER RECOMMENDATIONS:**

Planning Commission on December 16, 2004, voted 6-0 to recommend approval; no opposition.

Ayes: Chase, Steele, Lettieri, Garcia, Ontai, Otsuji

Not present: Schultz

This is a matter of City-wide effect. Community Planning Groups have been notified of this item and have not taken a position.

**CITY MANAGER SUPPORTING INFORMATION:**

**Background**

Under the City's existing Land Development Code (LDC), an applicant cannot "begin" (i.e. submit application for) the permit entitlement process with the Development Services Department until they can demonstrate they have "a legal right, interest, or entitlement" to all parcels/properties inclusive of a proposed development plan (LDC §113.0103). As this definition is currently worded, it is unclear whether a proposed redevelopment project proposal with an approved/executed Disposition and Development Agreement (DDA) would meet the requirements of the LDC. As a result, several redevelopment projects (including affordable housing projects) are facing extreme delays, because staff does not have clear authority to start reviewing the projects for their entitlements.

Given the preceding circumstances, an amendment to the LDC is proposed to clarify the definition "Applicant," thereby allowing redevelopment projects to begin the entitlement review process, as long as the Agency has approved and executed a DDA for the project. The amendment would not change any of the requirements for the approval of entitlements—projects would still need to come before the Hearing Officer, Planning Commission and/or City Council for approval, as currently required.

**FISCAL IMPACT:**

No direct fiscal impact on the City. However, it is anticipated that the proposed amendments to the Land Development Code could result in significant cost savings for redevelopment projects by providing faster schedules and more predictability in project submittal and permit entitlement processing. Additionally, these cost savings could lead to reductions in the need for public subsidies on some redevelopment projects.

Herring/Cunningham/KS

**NOTE:** The proposed amendment to the Land Development Code does not constitute a “project” and is therefore exempt from the California Environmental Quality Act pursuant to section 15060(c)(3) of the State CEQA Guidelines.

**FILE LOCATION:** NONE

**COUNCIL ACTION:** (Time duration: 11:51 a.m. – 11:57 a.m.;  
2:05 p.m. – 2:25 p.m.)

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



**ITEM-S502:** Wastewater and Water Capital Improvement Funding Update.

(See City Manager Report CMR-05-027.)

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-780) ADOPTED AS AMENDED AS RESOLUTION R-300106

Accepting the Wastewater and Water Capital Improvement Funding Update Report, as outlined in the City Manager Report No. 05-027.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 5:02 p.m. – 5:33 p.m.)

MOTION BY PETERS TO ADOPT THE RESOLUTION AS AMENDED TO CHANGE THE WORD “ACCEPTS” TO “RECEIVES.” Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

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

Lance Cpl. Mourad Ragimov, as requested by Council Member Peters.

FILE LOCATION:            AGENDA

COUNCIL ACTION:        (Time duration: 5:33 p.m. – 5:35 p.m.)