

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, FEBRUARY 14, 2005  
AT 2:00 P.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

**Table of Contents**

CHRONOLOGY OF THE MEETING.....	3
ATTENDANCE DURING THE MEETING .....	3
ITEM-1: ROLL CALL.....	4
ITEM-10: INVOCATION .....	4
ITEM-20: PLEDGE OF ALLEGIANCE.....	4
ITEM-30: Mark Winkler Day.....	4
CLOSED SESSION.....	5
ITEM-50: Amending the San Diego Municipal Code Relating to Signs.....	8
ITEM-51: Proposed Amendments to the City’s Land Development Code and Local Coastal Program.....	9
ITEM-100: Grant Application to the State of California Department of Transportation for the Construction of Perimeter Fencing and Access Control Project at Montgomery Field Airport – Phase III.....	10
ITEM-101: Penasquitos Town Center Linear Park – Site Acquisition and Development.....	11
ITEM-102: South Chollas Landfill Gas Lease and Liquified Natural Gas (LNG) Purchase Agreements .....	14
ITEM-103: Participation in Vehicle License Fee Gap Receivables Financing Program.....	16
ITEM-104: Utility Agreement for Relocation of Potable Waterlines within State Route 125	17
ITEM-105: Participation Agreement with Black Mountain Ranch, LLC, for Design and Construction of the North Villages at Del Sur Reclaimed Water Lines.....	19
ITEM-106: Appointment and Reappointment to the San Diego Housing Commission.....	21

**Minutes of the Council of Monday, February 14, 2005**  
**Table of Contents (Continued)**

**Page 2**

ITEM-107:	Appointing Councilmember Tony Young as Chair of the San Diego Consortium Policy Board of the San Diego Workforce Partnership .....	22
ITEM-108:	Excusing Councilmember Madaffer from the Natural Resources and Culture Committee Meeting of February 9, 2005.....	23
ITEM-109:	Nonprofit Management Solutions Salute to Excellence Day .....	23
ITEM-150:	Proposals for Short-Term Interim Use of San Diego Community Concourse Golden Hall and Related Facilities .....	24
ITEM-250:	<b>Notice</b> of Pending Final Map Approval – Miramar Self Storage.....	26
ITEM-251:	<b>Notice</b> of Pending Final Map Approval – Black Mountain Ranch North Cluster and Black Mountain Ranch North Village Unit No. 9.....	27
ITEM-252:	<b>Notice</b> of Pending Final Map Approval – The Egyptian.....	28
ITEM-S400:	Awarding a Contract to Commercial and Industrial Roofing Company, Inc., for the San Diego Aerospace Museum Roofing Repair Phase II.....	28
ITEM-S401:	Two actions related to the Construction of the Balboa Park Veterans Memorial Garden.....	31
ITEM-S402:	Appointment and Reappointment to the San Diego Planning Commission .....	33
ITEM-S403:	Retention of Kroll, Inc. and Mr. Lynn E. Turner to Provide Expert Services in Connection with Current Investigations Relating to the City’s Financial Condition .....	34
ITEM-S404:	<b>Notice</b> of Pending Final Map Approval – 3956 Texas Street.....	36
ITEM-S405:	<b>Notice</b> of Pending Final Map Approval – 1792 Missouri Street.....	36
NON-DOCKET ITEMS.....		37
ADJOURNMENT.....		37

**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Mayor Murphy at 2:09 p.m. Mayor Murphy recessed the meeting at 2:59 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:04 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 4:47 p.m. into Closed Session in the twelfth floor Committee Room to discuss existing and pending litigation matters.

**ATTENDANCE DURING THE MEETING:**

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) 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/Lane (ek)

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 Reverend Gretchen Pena of Christ Unity Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Donna Frye.

FILE LOCATION: MINUTES



ITEM-30: Mark Winkler Day.

**DEPUTY MAYOR ZUCCHET'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-794) ADOPTED AS RESOLUTION R-300124

Recognizing the exceptional contributions that Mark Winkler has made to progress the social climate in the San Diego region;

Proclaiming February 14, 2005, to be "Mark Winkler Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:15 p.m.)

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

CLOSED SESSION:

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

**CS-1 *AFSCME Local 127 v. City of San Diego*  
Los Angeles Superior Court Case No. LA-CE-209-M**

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 15, 2005

DCA assigned: Sanchez

This case involves an Unfair Labor Practice charge filed with the Public Employment relations Board by Local 127 alleging that San Diego Charter section 129.1 regarding removal of striking employees is an unlawful rule and the that City's practice of requesting new employees to acknowledge receipt of the charter section intimidates and coerces employees in the exercise of their rights under the Meyers-Milias-Brown Act. In Closed Session, the City Attorney will brief the Mayor and Council on the status of the matter and seek appropriate direction.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:40 p.m. – 3:40 p.m.)

**CS-2 *De Anza Cove Homeowners Association, Inc. v. City of San Diego*  
San Diego Superior Court Case No. GIC 821191**

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 15, 2005

DCA assigned: McGuiness

This matter concerns the litigation filed by the De Anza Cove Homeowners Association against the City of San Diego seeking damages related to expiration of the prior lease and transition of the property from use as a mobile home park to park and recreational use. In closed session, the City Attorney will report on the status of the litigation, and other matters affecting the litigation.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:40 p.m. – 3:40 p.m.)

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

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 15, 2005

ACA assigned: Girard

These matters involve a variety of disputes between certain companies owned or controlled by Roque de la Fuente and the City of San Diego [City] regarding the Border Business Park in Otay Mesa. The Border Business Park case resulted in a jury verdict against the City which is now on appeal. The National Enterprises and Otay Acquisitions cases are currently awaiting trial in the Superior Court. The Border Business Park case

has been referred to a mediation process in the appellate court. In closed session the City Attorney will report on the status of the mediation and request appropriate direction.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:40 p.m. – 3:40 p.m.)

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

**CS-4 *City of San Diego v. Berryman & Henigar, Inc.***

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 15, 2005

DCA assigned: Fusco

This matter involves a dispute between the City and an engineering design firm, Berryman & Henigar, Inc., who designed the sewer line on the La Jolla/Pacific Beach Chelsea Street Trunk Sewer Relocation Project. The City contends Berryman & Henigar, Inc. is responsible for costs associated with a conflict between the new sewer line and an existing storm drain structure. In closed session, the City Attorney will advise the Mayor and Council as to the propriety of the proposed settlement and discuss whether to proceed to litigation or approve the proposed settlement agreement.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:40 p.m. – 3:40 p.m.)

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

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

**Employee organizations: Municipal Employees Association, Local 127 AFSCME, AFL-CIO, Local 145**

**International Association of Firefighters  
AFL-CIO, San Diego Police Officers Association**

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 15, 2005

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.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:40 p.m. – 3:40 p.m.)

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

**CS-6 Title: City Manager**

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 15, 2005

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:40 p.m. – 3:40 p.m.)

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

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 01/31/2005, Item 50. (Council voted 9-0):



(O-2005-84) ADOPTED AS ORDINANCE O-19356 (New Series)

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.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:23 p.m.)

CONSENT MOTION BY YOUNG TO ADOPT. Second by Madaffer. 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-51: Proposed Amendments to the City's Land Development Code and Local Coastal Program.

(Citywide.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 2/1/2005, Item S501. (Council voted 8-1. Councilmember Frye voted nay):

(O-2005-83 Cor. Copy) CONTINUED TO MONDAY,  
FEBRUARY 28, 2005

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.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:57 p.m. – 4:16 p.m.)

MOTION BY MAIENSCHIN TO CONTINUE TO FEBRUARY 28, 2005 FOR FURTHER REVIEW BY COMMUNITY PLANNING CHAIRS. Second by Madaffer. 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: Grant Application to the State of California Department of Transportation for the Construction of Perimeter Fencing and Access Control Project at Montgomery Field Airport – Phase III.

(Kearny Mesa Community Area . District 6.)

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-412) ADOPTED AS RESOLUTION R-300125

Ratifying the City Manager’s application and acceptance of a Federal Aviation Administration Grant Offer in the amount of \$775,000;

Authorizing the City Manager, or his designee, to apply for and accept (if granted) a State matching grant in the amount of \$38,750 which is 5% of the Federal Grant;

Authorizing the City Manager, or his designee, to execute a Third Amendment to the Agreement with P&D Consultants, Inc., in an amount not to exceed \$34,800, for construction support services for Phase III of the Perimeter Fencing and Access Control Project at Montgomery Field Airport;

Authorizing the expenditure of \$813,750 from CIP-31-339.0, Perimeter Fencing and Access Control Project at Montgomery Field, for this purpose.

**CITY MANAGER SUPPORTING INFORMATION:**

During City Council Legislative Recess (August 2004), the Federal Aviation Administration (FAA) made a Grant Offer, (AIP No. 3-06-0211-07), to the City of San Diego for the on-going Perimeter Fencing and Access Control Project at Montgomery Field Airport - Phase III. The Grant Offer had to be accepted by the City on or before August 30, 2004, or the Offer would

have been voided by the FAA. The City Manager requests that the Mayor and Council ratify the application and acceptance of this Grant Offer in the amount of \$775,000.

The State of California Department of Transportation is authorized to provide Matching Funds of up to 5% of the Federal Grant. The City Manager requests authorization to apply for, accept, and if received, expend State Matching Funds in the amount of \$38,750. P&D Consultants has provided design and construction support services for the Perimeter Fence and Access Control Project at Montgomery Field, Phases I & II. The Manager requests authorization to execute the Third Amendment to Agreement with P&D Consultants, for Construction Support Services for this Project.

**FISCAL IMPACT:**

\$813,750 if the Grants are ratified accepted. None if they are not.

Herring/Griffith/Mean

Aud. Cert. 2500573.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:23 p.m.)

CONSENT MOTION BY YOUNG TO ADOPT. Second by Madaffer. 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:](#) Penasquitos Town Center Linear Park – Site Acquisition and Development.

(Rancho Penasquitos Community Area. District 1.)

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-665) ADOPTED AS RESOLUTION R-300126

Authorizing the City Manager to accept a quitclaim deed executed by the YMCA of San Diego County, executed in favor of the City of San Diego, bearing the date of January 13, 2005, donating in favor of the City of San Diego, a 1.757-acre strip of land to be developed as a public linear park as more particularly described in Exhibit "A";

Authorizing the City Manager, or his representative, to apply to the State of California's Clean Air, Safe Parks, and Coastal Protection Act of 2002, Per Capita Program in the amount of \$75,000, CIP-29-874.0, Penasquitos Town Center Linear Park (Project), for the construction of the park;

Authorizing the City Manager, or his representative, to take all necessary actions to secure funding from the Clean Air, Safe Parks, and Coastal Protection Act of 2002, Per Capita Program in the amount of \$75,000, CIP-29-874.0, for the Project;

Authorizing the City Manager, or his representative, to accept, appropriate and expend the grant funds, upon receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to establish a special interest-bearing account for the grant, upon receipt of a fully executed grant agreement; Amending the Fiscal Year 2005 Capital Improvement Program by adding CIP-29-874.0, for the Project;

Authorizing an increase in the Fiscal Year 2005 Capital Improvements Program Budget by \$200,000 in CIP-29-874.0, Fund No. 63022, Private Contributions – Capital Improvements Program;

Authorizing an increase in the Fiscal Year 2005 Capital Improvements Program Budget by \$75,000 in CIP-29-874.0, Penasquitos Town Center Linear Park in Clean Air, Safe Parks, and Coastal Protection Act of 2002, Per Capita Program, contingent upon receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to appropriate and expend \$200,000 from CIP-29-874.0, Fund No. 63022, Penasquitos Town Center Linear Park Private Contributions – Capital Improvements Program in the amount of \$200,000;

Authorizing the City Auditor and Comptroller to appropriate and expend \$75,000 from CIP-29-874.0, Penasquitos Town Center Linear Park in Clean Air, Safe Parks, and Coastal Protection Act of 2002, Per Capita Program, for the purpose of

constructing the Project, contingent upon receipt of a fully executed grant agreement;

Authorizing and directing the City Clerk to deliver the deed and a certified copy of this resolution to the Real Estate Assets Department for further handling.

**CITY MANAGER SUPPORTING INFORMATION:**

The donation of the linear park site is based on the intent of certain provisions in the Development Agreement and Option Agreement entered into between the City and American Newland Associates resulting in the donation of various parcels to the YMCA with the intent that if such parcels were not constructed and used for YMCA activity, the fee title would transfer to the City. The linear park site was originally a 4.48 acre parcel set out in that Development Agreement with such site donated by the developer to the YMCA. The YMCA has constructed or plans to construct certain facilities and/or use portions of the original 4.48 acre parcel so that the linear park site to be donated to the City is now 1.757 acres with the entire site subject to certain access road and water pipeline easements in favor of the San Diego County Water Authority.

As a result of a recent lawsuit settlement between the City and Westbrook Penasquitos, L.P. (Westbrook), Westbrook completed design drawings for the Penasquitos Town Center Linear Park and made a payment of \$200,000 to the City to fulfill Westbrook's obligations under an original development agreement authorized by the City on November 14, 1988, Document No. 00-17179 and assigned to Westbrook on August 14, 1997. This action also approves allocation of \$75,000 from Council District I's allotment of the City's Per Capita portion of the 2002 California Resources Bond. Distribution of the Per Capita funds to each council district was approved by Resolution R-298699 on December 8, 2003.

**FISCAL IMPACT:**

These actions will allocate \$275,000 (\$200,000 from Private Contributions - Capital Improvements Projects, Fund No. 63022 and \$75,000 Clean Air, Safe Parks, and Coastal Protection Act of 2002, Per Capita Program) for the construction of the Penasquitos Town Center Linear Park. The annual park maintenance is estimated to be \$18,000 which will be paid from the City's General Fund. A funding request by the Department of Park and Recreation will be made to the City Manager for the park's maintenance in the budget year the facility goes into operation.

Herring/Oppenheim & Griffith/AP

Aud. Cert. 2500684.

FILE LOCATION: DEED F-9885

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:23 p.m.)

CONSENT MOTION BY YOUNG TO ADOPT. Second by Madaffer. 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-102: South Chollas Landfill Gas Lease and Liquified Natural Gas (LNG) Purchase Agreements.

(Citywide.)

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-778) ADOPTED AS RESOLUTION R-300127

Authorizing the City Manager to execute a first amendment to the LNG Purchase Agreement with Applied LNG Technologies, USA, LLC, to purchase liquid natural gas, under the terms and conditions set forth in the First Amendment to LNG Purchase Agreement;

Authorizing the City Manager to execute an agreement with Golden Spread South Chollas, LLC, and Tech-San South Chollas Energy, LLC, to terminate the Landfill Gas Lease and Operating Agreement and Conversion System Site Lease Agreement relating to the South Chollas Landfill, under the terms and conditions set forth in the Agreement to Terminate said agreements;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$75,000 from Fund No. 30244, CIP-32-018.0, in connection with the above-referenced First Amendment and Agreement to Terminate, solely and exclusively, for work performed on the landfill gas collection system at the South Chollas Landfill.

**CITY MANAGER SUPPORTING INFORMATION:**

In December 2000, the City entered into three agreements to facilitate a research and development project that would attempt to convert landfill gas from the South Chollas Landfill into liquified natural gas (LNG) which could be used to fuel the City's dual-fuel refuse collection vehicles. The three agreements included a Landfill Gas Lease and Operating Agreement with Golden Spread South Chollas LLC, a Conversion System Site Lease Agreement with Tech-San South Chollas Energy LLC, and an LNG Purchase Agreement with Applied LNG Technologies USA LLC, the parent company of the other two companies (collectively "ALT").

The production of LNG from landfill gas at the South Chollas Landfill did not develop into a viable Research & Development Project.

Since the project is no longer viable, it is in the City's best interest to regain the gas rights at the South Chollas Landfill so other energy recovery projects can be pursued. ALT was responsible for maintaining the existing landfill gas collection and flaring system and continued to maintain the system after the LNG project was determined not to be viable. Under the proposed Termination Agreement, the City would make a one-time, lump sum payment to ALT in the amount of \$75,000 to reimburse a portion of the costs incurred on the City's behalf after the project was found to be non-viable.

Pursuant to the LNG Purchase Agreement, ALT has been providing the City with pipeline LNG fuel since 2001 at a cost of \$0.52 per gallon, which is substantially below market prices. The City requires a reliable source of LNG fuel through 2007. The current fixed price fuel supply agreement terminates in December 2005 and would be required to be replaced by a market price fuel supply agreement at much higher prices based on current costs for LNG. This First Amendment to the LNG Purchase Agreement would extend the fixed price through December 2006 and then revert to a market price formula. While the new fixed rate of \$0.72 per gallon is an increase above current rates, it is still substantially below market rates per gallon and assures a reliable fuel supply for the remainder of the term the City is obligated to operate the dual-fuel refuse collection vehicles.

**FISCAL IMPACT:**

The termination of the Landfill Gas Lease and Operating Agreement includes a one-time payment of \$75,000 from Fund 30244, CIP-32-018.0, and ongoing annual costs of approximately \$50,000 to meet regulatory requirements. The Amendment to the LNG Purchase Agreement will increase LNG prices from \$0.52 per gallon to \$0.72 per gallon commencing in January 2005 for \$96,000 in fuel costs per year. In 2007, LNG prices will move from a fixed rate to a market rate, projected to increase LNG fuel costs an additional \$85,000 per year.

Mendes/Heap/CG

Aud. Cert. 2500683.

FILE LOCATION: PURCHASE; LEAS-Golden Spread South Chollas, LLC,  
and Tech-San South Chollas Energy, LLC

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:23 p.m.)

CONSENT MOTION BY YOUNG TO ADOPT. Second by Madaffer. 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: Participation in Vehicle License Fee Gap Receivables Financing Program.

(See City Manager Report No. CMR-05-035. Citywide.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-809) ADOPTED AS RESOLUTION R-300123, WITH DIRECTION

Approving the form of and authorizing the execution and delivery of a Purchase and Sale Agreement and related documents with respect to the sale of the City of San Diego's Vehicle License Fee Receivable from the State of California; and directing and authorizing certain other actions.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:17 p.m. – 4:45 p.m.)

MOTION BY ATKINS TO ADOPT WITH DIRECTION THAT THE CITY MANAGER IDENTIFY AND COORDINATE URBAN CANYONS AND OPEN SPACE, START A PERMANENT DEDICATION AND PRESERVATION OF PARKLANDS UNDER THE OPEN SPACE DIVISION AND PARK PLANNING DIVISION, AND TO ALLOCATE SOME OF THE MONIES FROM THIS PROGRAM TO GET STARTED ON UNDERTAKING A PERMANENT DEDICATION AND PRESERVATION OF THE CITY'S URBAN CANYONS, OPEN-SPACE AREAS



AND PARKS WHICH ARE ELIGIBLE FOR DEDICATION. REQUEST THAT SOME OF THESE FUNDS BE ALLOCATED TO MEET THE INTENT OF THE ENVIRONMENTAL GROWTH FUND.

IN ORDER TO SUPPORT ENVIRONMENTAL GROWTH ISSUES, ACCEPT COUNCIL MEMBER MADAFFER'S RECOMMENDATION THAT THE CITY MANAGER PROVIDE A REPORT DURING THE BUDGET MEETINGS TO ADDRESS THE POTENTIAL OF ISSUING REVENUE ANTICIPATION NOTES ON THE EXISTING CASH FLOW, BASED ON TODAY'S LOW INTEREST RATES, WHICH COULD BE USED FOR PRUDENT ENVIRONMENTAL PURPOSES.

Second by Madaffer. 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-104: Utility Agreement for Relocation of Potable Waterlines within State Route 125.

(See memorandum from Frank Belock, Jr., dated 01/19/2005. City of Chula Vista.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-790) ADOPTED AS RESOLUTION R-300128

Authorizing the City Manager to execute Utility Agreement 26325-07 with Otay River Constructors (ORC), to reimburse \$318,602 in City costs for relocation of Otay II and III Pipelines within the Caltrans State Route 125 right-of-way, under the terms and conditions set forth in the Agreement;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$38,720 from Water Fund 41500, CIP-73-216.0, Black Mountain Ranch Reservoir to Water Fund 41500, CIP-73-024.0, Annual Allocation – Freeway Relocations;

Authorizing the expenditure of an amount not to exceed \$318,602 from Water Fund 41500, CIP-73-024.0, Annual Allocation – Freeway Relocations, for the purpose of providing funds for the Utility Agreement and related in-house engineering costs, provided that the City Auditor and Comptroller first furnishes

one or more certificates that funds are, or will be, on deposit with the City Treasurer;

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

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

On 01/26/2005, NR&C voted 5 to 0 to approve. (Councilmembers Atkins, Young, Maienschein, Frye, and Madaffer voted yea.)

**SUPPORTING INFORMATION:**

CALTRANS is constructing a new public highway, State Route 125, in San Diego County traveling from State Route 905 to State Route 54. Construction of the highway will necessitate the relocation of a portion of the City's potable water lines known as the Otay II and the Otay III. Based on the City's fee ownership of the property, the City has the superior right of occupancy. Therefore, Caltrans is required to relocate the impacted portion of the pipelines at its expense. The total cost of the project is \$1,132,808. However, Caltrans will pay the cost of construction estimated at \$902,500 and will reimburse the City its actual in-house costs for design review and coordination, and construction inspection up to \$274,500. Additionally, the City is required to credit Caltrans \$44,102 for pipeline depreciation. The City will invoice Caltrans for reimbursement of in-house costs on a quarterly basis throughout the performance of the project.

This request seeks approval to execute a Utility Agreement with Otay River Constructors (ORC) for relocation of the Otay II and Otay III pipelines. ORC is the contractor for the San Diego Expressway, L.P. (SDELP), a venture between the State of California, Department of Transportation (Caltrans) and California Transportation Ventures, Inc. SDELP has granted the ORC authority to negotiate and enter into agreements with utilities in conjunction with highway construction.

The environmental impacts and mitigation measures associated with the pipeline relocation to be performed by ORC are addressed in an Environmental Impact Report (SCH #89011118) certified by Caltrans on February 23, 2004, by Resolution #E-00-12.

**FISCAL IMPACT:**

The estimated cost of this Agreement is \$318,602. Funding for the project is available from Water Fund 41500, CIP-73-024.0, Annual Allocation - Freeway Relocations. An amount of up to \$274,500 will be reimbursed to the City. The final cost to the City will be \$44,102.

Mendes/Belock/MKS

Aud. Cert. 2500696.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:23 p.m.)

CONSENT MOTION BY YOUNG TO ADOPT. Second by Madaffer. 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: Participation Agreement with Black Mountain Ranch, LLC, for Design and Construction of the North Villages at Del Sur Reclaimed Water Lines.

(See memorandum from Frank Belock, Jr. dated 01/19/2005. Black Mountain Ranch Community Area. District 1.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-789) ADOPTED AS RESOLUTION R-300129

Authorizing the City Manager, or his duly authorized representative, to execute a Participation Agreement with Black Mountain Ranch, LLC, for the design and construction of the North Villages Reclaimed Water Pipelines (Participation Agreement) in the amount of \$360,749, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$425,000 from Water Fund 41500, CIP-70-954.0, North City Reclamation System (North Villages at Del Sur Reclaimed Water Lines), for the purpose of providing funds for the Participation Agreement and related in-house engineering costs, provided that the City Auditor and Comptroller first furnishes one or more certificates, certifying that funds are, or will be, on deposit with the City Treasurer;

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

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

On 01/26/2005, NR&C voted 5 to 0 to accept the report with direction for staff to return to Council with information on why this agreement is a good deal for the City. (Councilmembers Atkins, Young, Maienschein, Frye, and Madaffer voted yea.)

**SUPPORTING INFORMATION:**

In December 2000, the City approved the Updated Water Reclamation Plan (Beneficial Reuse Study) which provides a strategic approach for constructing key reclaimed water facilities in the North City Future Urbanizing Area (NCFUA).

Installation of these facilities will expand the existing system and enable the City to achieve its beneficial reuse goals established by the Environmental Protection Agency construction grant for the North City Reclamation Water Plant.

Black Mountain Ranch LLC (BMR), the developer of North Villages, met with the City's Water Department in March 2000, to be briefed on the reclaimed water study that was underway to identify potential customers and expand the existing distribution system. Recognizing the importance of a reliable and drought-proof water supply, BMR was receptive to using reclaimed water for landscape irrigation throughout their development, and agreed to pay the City a negotiated amount of \$500,000 at the time their golf course became connected to the reclaimed water system. The agreement assumed that the City would be expanding the reclaimed water system to a connection point with the North Villages golf course. Since this expansion has not been completed, as part of this Participation Agreement, the City and the developer will share the costs for the pipeline that will connect the North Villages golf course to the existing system. The City's total cost is \$425,000 including \$64,251 for in-house engineering. The Developer will contribute \$390,434 toward pipeline construction across the Lusardi Creek Bridge. In addition, the developer will pay the City a one-time fee of \$500,000 upon connection to the reclaimed water system. The pipeline will be installed concurrent with road construction and should be completed in May 2005.

Projected reclaimed water demands for the North Villages development includes 1,040 acre feet per year (AFY) for the golf course and 194 AFY for the residential, commercial, and open space areas within the development. Additionally, the contractor plans to use 92 acre feet of reclaimed water during construction.

This project was addressed in an Addendum (LDR No. 40-0528) to an EIR (LDR No. 96-7902) approved by City Council on November 27, 2001, by Resolution No. R-295791.

**FISCAL IMPACT:**

City Project cost of \$425,000 is available in CIP-70-954.0 for the North Villages at Del Sur Reclaimed Water Lines (\$360,749 for Agreement, \$64,251 for in-house engineering costs.)

Mendes/Belock/MKS

Aud. Cert. 2500686.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:45 p.m. – 4:46 p.m.)

MOTION BY YOUNG TO ADOPT. Second by Madaffer. 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:](#) Appointment and Reappointment to the San Diego Housing Commission.

(See memorandum from Mayor Murphy dated 01/07/2005, with resumes attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-761) ADOPTED AS RESOLUTION R-300130

Confirming the following appointment and reappointment by the Mayor of the City of San Diego, to serve as members of the San Diego Housing Commission, for terms ending January 2, 2009:

NAME

Salvador Salas, Chair

(Reappointment)

Howard J. Silldorf  
(Replacing Robert Grinchuk, whose term expired)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:23 p.m.)

CONSENT MOTION BY YOUNG TO ADOPT. Second by Madaffer. 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: Appointing Councilmember Tony Young as Chair of the San Diego Consortium Policy Board of the San Diego Workforce Partnership.

(See letter from Councilmember Atkins dated 01/24/2005.)

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-796) ADOPTED AS RESOLUTION R-300131

Appointing Councilmember Tony Young as Chair of the San Diego Consortium Policy Board of the San Diego Workforce Partnership.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:23 p.m.)

CONSENT MOTION BY YOUNG TO ADOPT. Second by Madaffer. 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: Excusing Councilmember Madaffer from the Natural Resources and Culture Committee Meeting of February 9, 2005.

**COUNCILMEMBER MADAFFER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-797) ADOPTED AS RESOLUTION R-300132

Excusing Councilmember Jim Madaffer from attending the February 9, 2005, Natural Resources and Culture Committee meeting. Councilmember Madaffer will be representing the City of San Diego at the SANDAG Board Retreat in Borrego Springs.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:23 p.m.)

CONSENT MOTION BY YOUNG TO ADOPT. Second by Madaffer. 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: Nonprofit Management Solutions Salute to Excellence Day.

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-749) ADOPTED AS RESOLUTION R-300133

Recognizing the important service Nonprofit Management Solutions continues to provide to the greater San Diego region;

Proclaiming February 8, 2005, to be "Nonprofit Management Solutions Salute to Excellence Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:23 p.m.)

CONSENT MOTION BY YOUNG TO ADOPT. Second by Madaffer. 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-150: Proposals for Short-Term Interim Use of San Diego Community Concourse Golden Hall and Related Facilities.

(See City Manager Report CMR-04-163. Centre City Community Area. District 2.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-795) ADOPTED AS RESOLUTION R-300134, WITH DIRECTION

Authorizing the City Manager to issue a request for proposals for the short-term interim use of Golden Hall and related facilities in the San Diego Community Concourse.

**RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S  
RECOMMENDATION:**

On 9/15/2004, Rules voted 5 to 0 to approve the following City Manager's recommendations:

1. Amend the Management Agreement to terminate San Diego Convention Center Corporation's (SDCCC) obligations effective June 30, 2005.
2. Execute a new agreement with San Diego Theaters, Inc. for the use of the Civic Theater.
3. Enter into lease negotiations with San Diego Opera for the Copper & Silver Rooms.
4. Request for Proposal (RFP) for the use of Golden Hall, break-out rooms and kitchen.
5. Use terrace meeting space for Development Services Department (DSD) conference rooms.
6. Use Plaza Hall for other City purposes.
7. Approve the Civic Center Guiding Principles.



Direct staff to present to the full Council the financial impact of these recommendations.  
(Councilmembers Peters, Atkins, Maienschein, Madaffer, and Mayor Murphy voted ye.)

**SUPPORTING INFORMATION:**

On September 15, 2004, the Committee on Rules, Finance and Intergovernmental Relations ("Committee") recommended approval of the following City Manager's recommendations related to the future use of the San Diego Community Concourse ("Concourse"):

1. Amend the Management Agreement to terminate San Diego Convention Center Corporation's ("SDCCC") obligations effective June 30, 2005.
2. Execute a new agreement with San Diego Theatres, Inc. for the use of the Civic Theatre.
3. Enter into lease negotiations with San Diego Opera for the Copper and Silver rooms.
4. RFP for the use of Golden Hall, break-out rooms and kitchen.
5. Use terrace meeting space for City conference rooms.
6. Use Plaza Hall for other City purposes.
7. Approve the Civic Center Guiding Principles.

The Committee directed staff to present to the City Council the financial impact of these recommendations. Staff recommends authorizing the issuance of an RFP which will allow for a complete fiscal analysis to be performed. Staff recommends returning to Council with this complete fiscal analysis along with the other recommendations listed above. This information should be considered as part of the Fiscal Year 06 budget discussion. Additional background information on this subject can be obtained in City Manager's Reports 04-163 and 04-030 which are part of the backup material for this item.

**FISCAL IMPACT:**

Unknown at this time.

Herring/Griffith

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:41 p.m. – 3:57 p.m.)

MOTION BY ZUCCHET TO ADOPT AND ACCEPT THE CITY MANAGER'S RECOMMENDATIONS WITH DIRECTION THAT 1) THE REQUEST FOR PROPOSALS (RFP) BE CHANGED TO 45 DAYS FOR A RESPONSE TIME; AND 2) IN THE DOCUMENT ENTITLED "DRAFT CIVIC CENTER GUIDING PRINCIPLES," UNDER ROMAN NUMERAL IV, BULLET 3, THAT THE PHRASE "EXPLORE TRANSIT CONNECTION" BE REMOVED.

CITING PAGE 5 OF THE CITY MANAGER'S REPORT DATED JULY 19, 2004 UNDER "THE NORTH PARK APOSTOLIC CHURCH" PROPOSALS, ACCEPT MAYOR MURPHY'S RECOMMENDATION THAT THE RFP INCLUDE THE PROVISION THAT GOLDEN HALL BE USED OCCASIONALLY FOR ELECTION CENTRAL AND NIGHT COUNCIL MEETINGS, PERHAPS FOUR TIMES A YEAR, IN ORDER TO BETTER SERVE THE PUBLIC.

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.

**ITEM-250: Notice of Pending Final Map Approval – Miramar Self Storage.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "Miramar Self Storage" (T.M. No. 19195 PTS No. 39650), located northwesterly of Miramar Road and Miramar Place in the University Community Plan Area in Council District 5, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal.

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

**ITEM-251: Notice of Pending Final Map Approval – Black Mountain Ranch North Cluster and Black Mountain Ranch North Village Unit No. 9.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final maps entitled “Black Mountain Ranch North Cluster” (T.M. No. 4796 PTS No. 30527) and “Black Mountain Ranch North Village Unit No. 9” (T.M. No. 40-0528 PTS No. 25699), located northwesterly of San Dieguito Road and Black Mountain Road in the Black Mountain Ranch Community Plan Area in Council District 1, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

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

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

**ITEM-252: Notice of Pending Final Map Approval – The Egyptian.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “The Egyptian” (T.M. No. 012922 PTS No. 6359), located southwesterly of University Avenue and Park Blvd. in the Uptown Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

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

\* ITEM-S400: Awarding a Contract to Commercial and Industrial Roofing Company, Inc., for the San Diego Aerospace Museum Roofing Repair Phase II.

(Balboa Park Community Area . District 3.)

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-793) ADOPTED AS RESOLUTION R-300135

Authorizing the City Manager to award the contract to Commercial and Industrial Roofing Company, Inc., in an amount not to exceed \$1,007,250 for the construction of Balboa Park Aerospace Museum - Roof Replacement, CIP-21-862.0, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Amending the Fiscal Year 2005 Capital Improvements Program Budget for CIP-21-862.0, Balboa Aerospace Museum-Roof Replacement, in Fund No. 30245, Capital Outlay-Sales Tax, by increasing the budget amount by \$876,055;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$876,055 from CIP-21-862.0, Aerospace Museum Roof Replacement, Fund No. 30245, Capital Outlay-Sales Tax, for the purpose of repairing the roof of the San Diego Aerospace Museum;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$33,945 from CIP-21-856.0, Inspiration Point Precise Plan, Fund No. 60253, Inspiration Point Landscape Fund to CIP-21-862.0, Balboa Park Aerospace Museum-Roof Replacement, Fund No. 60253, Inspiration Point Landscape Fund for the purpose of repairing the roof of the San Diego Aerospace Museum;

Amending the Fiscal Year 2005 Capital Improvements Program Budget for CIP-21-862.0, Balboa Park Aerospace Museum - Roof Replacement, Fund No. 60253, Inspiration Point Landscape Fund, by increasing the budget by \$33,945;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$33,945 from CIP-21-862.0, Aerospace Museum Roof Replacement, Fund No. 60253, Inspiration Point Landscape Fund, for the purpose of repairing the roof of the San Diego Aerospace Museum;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$310,000 from CIP-21-862.0, Aerospace Museum Roof Replacement, Fund No. 38140, 2000 Park Bond per capita, for the purpose of repairing the roof of the San Diego Aerospace Museum;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$30,000 from CIP-21-862.0, Aerospace Museum Roof

Replacement, Fund No. 102341, Balboa Park Regional Parks Infrastructure Fund, for the purpose of repairing the roof of the San Diego Aerospace Museum;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$85,000 from CIP-21-862.0, Aerospace Museum Roof Replacement, Fund No. 60253, Inspiration Point Landscape Fund, for the purpose of repairing the roof of the San Diego Aerospace Museum. (BID-K052259)

**CITY MANAGER SUPPORTING INFORMATION:**

The San Diego Aerospace Museum, which was constructed in preparation of the 1935 California Pacific International Exposition, is located in the southwest portion of Balboa Park. The existing roof was renovated in 1978 because of damage done by a fire earlier that year. The existing roof is now in need of re-construction. The Aerospace Museum is a massive historic structure with two levels of roof and a deck. It houses vintage planes and murals that are irreplaceable. During the recent rain events, the structure was leaking excessively causing extreme concern.

The original project proposed to provide for the installation of new roofing applied over the existing roof. A thorough evaluation of the existing conditions has shown that additional funding will be required to address previously unforeseen deficiencies; the large and obsolete solar panels need removal; all roof drains need replacement; and the down spouts that are routed inside the stucco walls of the building have disintegrated and need replacement. This transfer of funds is therefore needed to address all areas of required work to complete the project. This item awards the construction contract to the low bidder, Commercial and Industrial Roofing Company, Inc.

**FISCAL IMPACT:**

The current funding for this project is \$310,000 from 2000 Park Bond per capita, \$30,000 from Regional Parks Infrastructure Fund, and \$85,000 from Inspiration Point Landscape Fund. With this transfer of funds, the total CIP budget will be \$1,335,000. Of this amount, \$82,000 has been expended towards Phase I construction involving the existing deck at the museum. The Phase I construction was done by City Forces. The total cost for Phase II construction is \$1,253,000. Of this amount, \$147,750 is for design and administration, \$1,007,250 is the construction contract, and \$100,000 is for contingency. Funding needed for this transfer is available in Fund No. 30245, Capital Outlay-Sales Tax and Fund No. 60253, Inspiration Point Landscape Fund.

Herring/Oppenheim/AP

Aud. Cert. 2500716.

FILE LOCATION: CONT-Commercial and Industrial Roofing Company, Inc. (W.O. 218620)

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:23 p.m.)

CONSENT MOTION BY YOUNG TO ADOPT. Second by Madaffer. 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](#): Two actions related to the Construction of the Balboa Park Veterans Memorial Garden.

(Balboa Park Community Area . District 3.)

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2005-819) ADOPTED AS RESOLUTION R-300136

Authorizing the City Manager to award the contract to Ghassan Construction, Co., in an amount not to exceed \$812,479.06, for the construction of the Balboa Park Veterans Memorial Garden;

Amending the Fiscal Year 2005 Capital Improvement Program Budget for CIP-21-855.5, Balboa Park Veterans Memorial Garden, by increasing the budget amount by \$400,000, pending receipt of fully executed agreement;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$400,000 from 2002 Resources Park Bond to CIP-21-855.5, Balboa Park Veterans Memorial Garden, for the construction of the Balboa Park Veterans Memorial Garden, pending receipt of fully executed agreement;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$400,000 from CIP-21-855.5, Balboa Park Veterans Memorial Garden, pending receipt of fully executed agreement;

Authorizing the expenditure of an amount not to exceed \$1,000,000 from CIP-21-855.5, Fund No. 38213, Historical and Cultural Preservation Grant, for the construction of Balboa Park Veterans Memorial Garden.

Subitem-B: (R-2005-821) ADOPTED AS RESOLUTION R-300137

Stating for the record that the information contained in the final Mitigated Negative Declaration, including any comments received during the public review process, has been previously reviewed and considered prior to approving this project 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 Balboa Park Veterans Memorial Garden;

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

**CITY MANAGER SUPPORTING INFORMATION:**

The Balboa Park Veterans Memorial Garden project is located on the east side of Park Boulevard in Balboa Park, immediately adjacent to the Veterans Museum and Memorial Center. The project will be located on approximately one acre of parkland that is currently occupied by two dilapidated tennis courts and turf. At the center of the Veterans Memorial Garden will be the Veterans Circle, which is a paved plaza with a small amphitheater. There will be three smaller gardens with the main garden; a Land Garden, an Air Garden and a Sea Garden. The gardens are intended to honor those who have served our country in the military on land, in the air and at sea. Amendments to the City's General Plan and the Balboa Park Master Plan incorporating the Veterans Memorial Garden were approved by City Council on September 21, 2004, Resolution R-299667.

The project was advertised for bids on January 4, 2005, and bids were opened on January 25, 2005. The lowest responsible bidder was determined to be Ghassan Construction Co. The lowest responsible bid was for \$812,479.06, which is 30% higher than the engineer's estimate of \$624,000. An additional \$400,000 is required to award the base bid for construction and associated costs.

**FISCAL IMPACT:**

The current funding for this project is \$1,000,000, from the 2002 Resources Park Bond, Fund No. 38213, Historical and Cultural Preservation Grant. Additional funds are required for the construction of the base bid contract, desired additive bid alternates and related costs. Additional funds in the amount of \$400,000 are available in the 2002 Resources Park Bond.



Herring/Oppenheim/ASP

FILE LOCATION: CONT-Ghassan Construction Co.; W.O. 218555

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:23 p.m.)

CONSENT MOTION BY YOUNG TO ADOPT. Second by Madaffer. 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: Appointment and Reappointment to the San Diego Planning Commission.

(See memorandum from Mayor Murphy dated 1/24/2005, with resumes attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-777) ADOPTED AS RESOLUTION R-300138

Council confirmation of the following appointment and reappointment by the Mayor of the City of San Diego, to serve as members of the San Diego Planning Commission, for four-year terms ending January 28, 2009:

Appointment

Robert S. Griswold  
(Replacing Anthony J. Lettieri, whose term has expired)

Reappointment

Barry J. Schultz

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:05 p.m. – 3:38 p.m.)

MOTION BY ATKINS TO ADOPT, APPROVING THE APPOINTMENTS. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea (nay on appointment of Robert S. Griswold), Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



[ITEM-S403](#): Retention of Kroll, Inc. and Mr. Lynn E. Turner to Provide Expert Services in Connection with Current Investigations Relating to the City's Financial Condition.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-820 Cor. Copy) ADOPTED AS RESOLUTION R-300139

Authorizing and directing the Mayor, City Manager, and City Attorney, to execute the agreement with Kroll, Inc., attached hereto as Exhibit B;

Authorizing the initial amount of \$250,000 from the Public Liability Fund No. 81140, for the above entitled purpose on the condition that the City Auditor and Comptroller first certify that the funds are in the treasury and available for these purposes, although additional sums may be necessary to be authorized from time to time by the City Council;

Authorizing and directing the City Auditor and Comptroller, upon consultation with the City Attorney, to allocate the above described expenditure between the General Fund, the Sewer Fund (No. 41506) and the Water Fund (No. 41500) based upon an appropriate and lawful allocation method.

**CITY MANAGER 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. Those investigations are on-going. Early in 2004 the City retained the services of the law firm Vinson & Elkins LLP (V&E) to conduct an investigation and provide a report on disclosure practices of the City from 1996 to the present. V&E completed its investigation and in September of 2004 issued its report. Also, in the spring of 2004 the City retained the services of the accounting firm KPMG to perform the outside audit of the City's FY 2003 financial statements. Pursuant to its obligations with respect to the conduct of

the FY 2003 audit, the City has undertaken two separate further investigations; one by V&E and one by the City Attorney. It is expected that reports will be issued following these investigations (an interim report was issued by the City Attorney on January 14, 2005). It is necessary and appropriate for the City to designate the person or body to receive the additional investigative reports, assess them, reconcile any discrepancies, and make appropriate recommendations to the City Council. In addition, it is necessary for the City to provide for a review of the City's internal controls related to reporting and disclosure pursuant to applicable securities laws. Recently, it came to the attention of the City that Mr. Lynn E. Turner is available for this important assignment. Mr. Turner is currently a senior advisor to Kroll Zolof Cooper, a company specializing in corporate advisory and restructuring issues, and forensic accounting and litigation; and is the managing director of research at Glass Lewis & Co., a company that provides objective evaluation of corporate integrity and financial transparency for public companies.

Most importantly, Mr. Turner is the former Chief Accountant of the SEC, serving in that position from 1998 to 2001. In that capacity, he was the principal advisor to the SEC Chairman and the full Commission on financial reporting and disclosure by public companies. A copy of Mr. Turner's resume is attached to the proposed resolution, as is the proposed engagement letter.

The City Manager recommends that the City Council retain Mr. Turner to perform the important functions described above, and be available to provide such further advice and recommendations as may be appropriate. Mr. Turner presents a unique blend of talent and experience that will be invaluable to the City in responding to the conclusions in the V&E and City Attorney investigations and reports, and in moving forward towards obtaining the audit of the City's FY 2003 financial statements. An initial expenditure of \$250,000 is recommended, subject to the City Auditor and Comptroller first certifying that the necessary funds are in the treasury and available for this purpose. The Mayor, City Manager and City Attorney would be authorized to execute the proposed engagement letter, providing for the full cooperation of the City and the independence of Mr. Turner in the performance of the scope of work.

Ewell

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:58 p.m.)

MOTION BY FRYE 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-yea, Mayor Murphy-yea.

**ITEM-S404: Notice of Pending Final Map Approval – 3956 Texas Street.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “3956 Texas Street” (T.M. No. 72716 PTS No. 57814), located northwesterly of Texas Street and University Avenue in the Greater North Park Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

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

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

**ITEM-S405: Notice of Pending Final Map Approval – 1792 Missouri Street.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “1792 Missouri Street.” (T.M. No. 27262 PTS No. 58386), located northeasterly of Missouri Street and Jewell Street in the Pacific Beach Community Plan Area in Council District 2, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

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

**NON-DOCKET ITEMS:**

None.

**ADJOURNMENT:**

The meeting was adjourned by Mayor Murphy at 4:47 p.m.

FILE LOCATION: MINUTES

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