THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, MARCH 7, 2005
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:12 p.m. Mayor Murphy recessed the meeting at 2:38 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 2:43 p.m. with Council Member Young not present. Mayor Murphy recessed the meeting at 3:15 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:29 p.m. with Council Member Young not present. Mayor Murphy recessed the meeting at 5:31 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 5:42 p.m. with Council Member Young not present. Mayor Murphy adjourned the meeting at 6:27 p.m. into Closed Session to discuss pending and potential litigation and meet and confer 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-Excused (By R-300195 due to representing City APTA Legislative Conf.)

(5) Council Member Maienschein-present

(6) Council Member Frye-present

(7) Council Member Madaffer-present

(8) Council Member Inzunza-present

Clerk-Abdelnour/Joyce Lane (er)

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-not 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 City Clerk Abdelnour.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Frye.

FILE LOCATION: MINUTES

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

02/07/2005
02/08/2005
02/14/2005
02/15/2005

FILE LOCATION: MINUTES

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

MOTION BY ZUCCHET TO APPROVE. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-not present, Maienschein-yea, 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 *City of San Diego v. Horton*
San Diego Superior Court No. GIC 777603
Fourth District Court of Appeal No. D043425

REFERRED TO CLOSED SESSION ON MONDAY, MARCH 7, 2005

DCA assigned: Silva

This case involves an eminent domain action brought to acquire property needed for State Route 56. In closed session, the City Attorney will update the City Council on the appellate court's ruling in this case and seek direction from the City Council.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:37 p.m.)

Mayor Murphy closed the hearing.

CS-2 *Jimenez, et al. v. City of San Diego*, *et al.*
United States District Court Case No. 03cv0094 DMS (WMc)

REFERRED TO CLOSED SESSION ON MONDAY, MARCH 7, 2005

ACA assigned: Gordon

This matter involves a wrongful death lawsuit arising out of a police incident that occurred on March 22, 2002. In closed session the City Attorney will brief the Mayor and City Council on a possible settlement.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:37 p.m.)

Mayor Murphy closed the hearing.

CS-3 *County of San Diego County Taxpayers Association v. City of San Diego*
San Diego Superior Court No. GIC 841487

REFERRED TO CLOSED SESSION ON MONDAY, MARCH 7, 2005

DCA assigned: McGrath

This matter involves a lawsuit against the City seeking to invalidate that agreement known as "Manager's Proposal II", between the City and the Retirement Board. In closed session the City Attorney will brief the City Council on the matter and make appropriate recommendations for proceeding.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:37 p.m.)

Mayor Murphy closed the hearing.

CS-4 *SDCERS v. San Diego City Attorney, et al.*
San Diego Superior Court No. GIC 841845

REFERRED TO CLOSED SESSION ON MONDAY, MARCH 7, 2005

DCA assigned: McGrath

This matter involves a lawsuit against the City and the City Attorney seeking a declaration and injunctive relief as to the rights of the Retirement System and its Board of Administration with respect to the provisions of legal advice and the role of the City Attorney, and the ownership on control of certain documents. In closed session the City Attorney will advise the City Council on the matter and make appropriate recommendations for proceeding.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:37 p.m.)

Mayor Murphy closed the hearing.

CS-5 (a) *United States of America v. City of San Diego,*
U.S. District Court No. 03-CV-1349-K

(b) *San Diego BayKeeper/Surfrider Foundation v. City of San Diego*,
U.S. District Court No. 01-CV-0550-B

REFERRED TO CLOSED SESSION ON MONDAY, MARCH 7, 2005

DCA assigned: Bromfield

Each of these lawsuits alleges violations of the federal Clean Water Act due to sewer system overflows experienced by the City from December 1996 to the present. For judicial economy, both cases were consolidated and the parties have been exploring potential resolutions. The Mayor and City Council will be briefed on a proposed resolution involving a Partial Consent Decree that would resolve all issues through October 1, 2004, and stay the remaining issues through February of 2006. The legal implications, estimated cost, and recommendations on settlement will be discussed by the City Attorney and City Manager.

Closed Session Comment 1:

Daniel Beeman commented on sewer overflows and pollutants running into our water.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:37 p.m.)

Mayor Murphy closed the hearing.

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

C-6	Property:	Approximately 1.15 acres of city owned land located at the northwest corner of North Torrey Pines Road and Genesee Avenue adjacent to APN 342-490-06, 09, 10
	Agency Negotiator:	William T. Griffith, Real Estate Assets Director
	Negotiating Parties:	Ted Eldridge and Perry M. Dealy, Manchester Business Park
	Under Negotiation:	Terms and conditions of potential disposition of the property

REFERRED TO CLOSED SESSION ON MONDAY, MARCH 7, 2005

DCA assigned: Matthews

This matter involves the potential disposition of a City-owned remnant parcel created by the realignment of North Torrey Pines Road as joinder to the adjacent property. In closed session, City staff will be seeking direction on the terms of the potential disposition of the property.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:37 p.m.)

Mayor Murphy closed the hearing.

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

CS-7 In the matter of City of San Diego Bond Offerings, Securities & Exchange Commission No. LA-2842, and United States Attorney's Office Investigation into certain City of San Diego Financial Disclosure Matters.

REFERRED TO CLOSED SESSION ON MONDAY, MARCH 7, 2005

CA assigned: Aguirre

These matters involve investigations by the SEC and the U.S. Attorney's Office into certain financial matters of the City. In closed session, the City Attorney will report on the status of these matters and discuss possible resolutions of the SEC's investigation with respect to the City of San Diego only.

Closed Session Comment 1:

Daniel Beeman expressed his concerns regarding public awareness of items on the Council docket.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:37 p.m.)

Mayor Murphy closed the hearing.

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

CS-8 Agency negotiators: Lamont Ewell, Cathy Lexin, Mike McGhee

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

RETURNED TO THE CITY ATTORNEY.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:37 p.m. – 2:37 p.m.)

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

CS-9 Title: City Manager

RETURNED TO THE CITY ATTORNEY.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:37 p.m. – 2:37 p.m.)

ITEM-50: Adding the Committee on Government Efficiency and Openness to the San Diego Municipal Code.

CITY ATTORNEY'S RECOMMENDATION:

Introduce the following ordinance:

(O-2005-88) INTRODUCED, TO BE ADOPTED ON MONDAY, APRIL 4, 2005

Introduction of an Ordinance amending Chapter 2, Article 2, Division 1, of the San Diego Municipal Code by amending Section 22.0101, entitled "Permanent Rules of the Council" by amending Rule 10, Rule 18, and by adding new Rule 21.1, all related to the Committee on Government Efficiency and Openness.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 5:58 p.m. – 6:04 p.m.)

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

ITEM-100: Increase Funds for Kellogg Park South Restroom Project.

(La Jolla Shores Community Area. District 1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-783) ADOPTED AS RESOLUTION R-300189

Amending the Fiscal Year 2005 Capital Improvements Program Budget for CIP-29-471.0, Kellogg Park South Restroom (Project), in Fund No. 79514, La Jolla/La Jolla Shores Development Impact Fee by increasing the budget amount by $50,000;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed $50,000 from CIP-29-471.0, Kellogg Park South Restroom, Fund No. 79514, La Jolla/La Jolla Shores Development Impact Fee, for the purpose of supplementing existing funds for the construction of this project.

CITY MANAGER SUPPORTING INFORMATION:

The existing Kellogg Park South Restroom was constructed in 1958, and the masonry structure is damaged to an extent that is beyond repair or remodel. This project provides for demolishing the existing restroom facility and replacing it with a new facility to be constructed in the same location. Starting in January 1998, twenty eight (28) public meetings were held resulting in

numerous redesigns and scope additions to the project. Ultimately, on December 10, 2002, the City received bids for construction of this restroom that were significantly higher than the construction budget. All bids were rejected and the project was put on hold. At that point, $227,000 of the original $543,000 project budget had been expended. This initial project work occurred prior to the current streamlining policy, "Community Notification and Input for City-wide Park Development Projects", Council Policy No. 600-33.

In an effort to see the project implemented, the project was subsequently redesigned by Mr. Dale Naegle, FAIA, who donated the majority of his design fees. Louis Beacham, a community resident, has offered to construct the project at cost. A sole source construction contract for $300,000 was awarded to Beacham Construction, Inc. The combination of donated professional design services and acceptance of the construction proposal via the sole source process has saved the City considerable expense, making it possible for this project to proceed. If this were not done, the project would remain on hold. An additional $50,000 is needed to pay for the minimal redesign costs, building permits, capacity charges and administrative costs. Appropriation of these additional funds will enable completion of the project.

FISCAL IMPACT:

The new total project cost for the current design is $366,000. Currently $316,000 is available in the project budget. Additional funding in the amount of $50,000 is available for this request from La Jolla/La Jolla Shores Development Impact Fees, Fund No. 79514, to supplement existing funding. The total estimated project cost for the original designs plus the current design is $593,000.

Herring/Oppenheim/AP

Aud. Cert. 2500766.

Staff: April Penera – (619) 525-8223

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:43 p.m. – 5:48 p.m.)

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

ITEM-101: Washington Street Improvements Phase 2 India Street Segment.

(Uptown Community Area. District 2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-854) ADOPTED AS RESOLUTION R-300190

Amending Fund 79512, Uptown DIF, Washington/Goldfinch Intersection Improvements Segment, by appropriating an amount of $60,000 for Capital Improvement Project CIP-39-216.0 Washington Street Improvements, Phase 2;

Amending the Fiscal Year 2005 CIP budget for CIP-39-216.0 Washington Street Improvements, Phase 2, by increasing the budget amount by $60,000;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed $60,000 from Fund 79512, Uptown DIF, Washington/Goldfinch Intersection Improvements Segment, in CIP-39-216.0 Washington Street Improvements, Phase 2, solely and exclusively for the purpose of constructing the Washington/Goldfinch Intersection Improvements Segment, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are available.

CITY MANAGER SUPPORTING INFORMATION:

The Washington Street Improvements Project consists of Phased improvements to the right of way along Washington Street from the I-5 Freeway to First Avenue. Phase I has been completed. Two segments of Phase 2, CIP-39-216.0 are now ready to proceed. These include Washington Street at India Street Median Improvements and Washington/Goldfinch Intersection Improvements.

Engineering plans have been prepared for the Washington Street at India Street Median Improvements segment utilizing North Bay Redevelopment funding. In addition, Nowell and Associates has provided landscape plans pro bono. The Mission Hills Business Improvement Association has guided the design process. The construction cost estimate for the median project is $60,000. The Washington/Goldfinch Intersection segment is being advertised for bids a second time and has been funded using TransNet and other grant funds. The scope of the project

includes over $60,000 in crosswalk, curb, gutter and sidewalk improvements, which qualify for funding from the Uptown DIF. DIF Funds are available for allocation to this project.

FISCAL IMPACT:

The proposed action is to increase the FY 2005 CIP budget for CIP-39-216.0, Washington Street Improvements Phase 2 by $60,000, and authorize the appropriation and expenditure of $60,000 from the Uptown DIF (Fund 79512) in CIP 39-216.0 for use in constructing the Washington/Goldfinch intersection improvements. This action would make $60,000 in TransNet funds available from the Washington/Goldfinch segment for use in constructing the median improvements at Washington and India Streets.

Herring/Cunningham/SHM

Aud. Cert. 2500733.

Staff: Sue McDevitt – (619) 533-7528

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:48 p.m. – 5:51 p.m.)

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

ITEM-102: Office Space License Agreement with Wavehouse San Diego, LLC for a Police Department Storefront, located at 3146 Mission Boulevard.

(Mission Beach Community Area. District 2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-875) ADOPTED AS RESOLUTION R-300191

Authorizing the City Manager to execute a 16-month license agreement, with an option to extend for up to three additional years, with Wavehouse San Diego, LLC, a California limited liability company, for the Premises located in Belmont Park at 3146 Mission Boulevard, for a Police Department storefront, for no rent, commencing December 1, 2004, on the terms and conditions substantially as set forth in the License Agreement.

CITY MANAGER SUPPORTING INFORMATION:
Wavehouse San Diego, LLC, operators of Belmont Park in Mission Bay Park, has offered office space at no cost to the San Diego Police Department for operation of a police storefront. The Mission Beach Town Council and Wavehouse have agreed to pay the utilities.

The Police Department is proposing to occupy the space under the following terms:

PREMISES: 3146 Mission Boulevard, San Diego.

TERM: Sixteen (16) months with an option to extend for up to three (3) additional years by mutual agreement and City Manager approval.

RENT: None.

UTILITIES COST: None.

USE: Police Storefront.

SIZE: 110 square feet.

FISCAL IMPACT:
None.

Herring/Griffith/JPA

Staff: James Anthony – (619) 533-6509

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:51 p.m. – 5:53 p.m.)

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

* ITEM-103: Grant Application to California Integrated Waste Management Board for Solid Waste Local Enforcement Agency (LEA).

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-838) ADOPTED AS RESOLUTION R-300192

Authorizing the City Manager to submit an application to the California Integrated Waste Management Board (CIWMB) for a Local Enforcement Agency Grant and, if awarded, to accept and expend the grant funds for the purposes set forth in this resolution;

Authorizing the City Manager to conduct all negotiations, execute and submit all documents, including but not limited to applications, grant agreement, amendments, payment requests, which may be necessary to carry out and administer the obligations, responsibilities, and duties of the City of San Diego Solid Waste LEA under the terms of the grant;

Authorizing the City Auditor and Comptroller to establish a separate fund for these funds.

CITY MANAGER SUPPORTING INFORMATION:
The California Integrated Waste Management Board (CIWMB) is accepting applications for their Local Enforcement Agency (LEA) Grant program. Funds totaling $1.5 million are to be distributed from the CIWMB to certified LEAs. Pursuant to Public Resources Code Section 43230, these grant awards are to be used solely for support of LEAs' Solid Waste Facilities Permit and Inspection Programs. The City of San Diego Solid Waste LEA was certified in August 1999 by the CIWMB to carry out the duties and responsibilities associated with permitting, inspections and enforcement at solid waste sites.

The City of San Diego LEA proposes to request grant funds for the purchasing of computer equipment and software, office and technical equipment, office supplies, health and safety equipment, medical monitoring program, maintenance of existing field equipment, laboratory services, reference materials, professional memberships, public outreach materials and opportunities, field apparel and for additional training of LEA staff to carry out their regulatory mandates. The City of San Diego Solid Waste LEA is eligible for approximately $27,800.

FISCAL IMPACT:
If awarded, the City would receive approximately $27,800. This is not a matching grant.

Frazier/Halbert/RLL

Staff: Rebecca Lafreniere – (619) 533-3694

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:27 p.m. – 2:29 p.m.)

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

* ITEM-104: Excusing Councilmember Peters from the Rules Committee Meeting of February 16, 2005.

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-873) ADOPTED AS RESOLUTION R-300193

Excusing Councilmember Scott Peters from attending the regularly scheduled February 16, 2005, Rules Committee meeting, due to his attendance at the California Coastal Commission hearing on the same date.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:27 p.m. – 2:29 p.m.)

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

* ITEM-105: Excusing Councilmember Young from the Natural Resources and Culture Committee Meeting of February 9, 2005.

COUNCILMEMBER YOUNG'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-888) ADOPTED AS RESOLUTION R-300194

Excusing Councilmember Anthony Young from attending the regularly scheduled Natural Resources and Culture Committee meeting of February 9, 2005, due to personal reasons.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:27 p.m. – 2:29 p.m.)

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

* ITEM-106: Excusing Councilmember Young from the City Council Meetings of March 7–8, 2005, and the Land Use and Housing Committee Meeting of March 9, 2005.

COUNCILMEMBER YOUNG'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-889) ADOPTED AS RESOLUTION R-300195

Excusing Councilmember Anthony Young from attending the following regularly scheduled meetings, due to his representing the City of San Diego at the APTA Legislative Conference from March 7-9, 2005:

1. City Council meetings of March 7 and 8, 2005, and
2. Land Use and Housing Committee meeting of March 9, 2005.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:27 p.m. – 2:29 p.m.)

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

ITEM-200: Ratifying the Project Area Committee (PAC) Election Results of February 9, 2005, for the North Park Redevelopment Project Area.

(See City Manager Report CMR-05-054. North Park Community Area. District 3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-860) ADOPTED AS RESOLUTION R-300196

Approving the persons elected as members of the PAC for the North Park Redevelopment Project Area as newly elected members of the PAC, as noted by the City Clerk's verification of the election results of February 9, 2005;

Declaring the Council finds that the election results of February 9, 2005 are valid and binding in accordance with the procedures so adopted by Resolution No. 298703;

Directing the Redevelopment Agency of the City of San Diego to consult with and obtain the advice of the PAC pursuant to the provisions of the California Community Redevelopment Law (California Health and Safety Code Section 33000 et seq.).

Staff: Tom Romstad – (619) 533-5284

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:54 p.m. – 5:58 p.m.)

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

ITEM-201: This item has been removed from the Docket.

ITEM-202: Fiscal Year 2006 Budget Priority Workshop Report.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-898) ADOPTED AS RESOLUTION R-300197

Accepting the City Manager's Fiscal Year 2006 Budget Priority Workshop Report.

Staff: Mahoe Nakanelua – (619) 533-6386

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:29 p.m. – 5:31 p.m.)

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

ITEM-S400: Second Amended and Restated Agreement with Hawkins Delafield & Wood, LLP for General Disclosure Counsel Services.

(Continued from the meeting of February 28, 2005, Item 203, at the request of the City Attorney, in order to complete paperwork on the resolution.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-869) TRAILED TO TUESDAY, MARCH 8, 2005

Authorizing the Second Amended and Restated Agreement with Hawkins Delafield & Wood, LLP for general disclosure counsel services and authorizing an additional expenditure of $500,000.

SUPPORTING INFORMATION:

The Report on Investigation dated September 16, 2004, prepared by Vinson & Elkins L.L.P. recommended that the City rely on a single, well-qualified firm to provide disclosure counsel services in order to provide for continuity in the City's disclosure materials and a greater accountability on the part of disclosure counsel. The City accepted that recommendation and engaged the Hawkins Delafield & Wood LLP [Firm] to serve as the City's general disclosure counsel. Such services include, but are not limited to, advising the City regarding its disclosure obligations under federal securities laws, advising the City regarding the provisions of the San Diego Municipal Code pertaining to disclosure; participating in the Disclosure Practices Working Group; conducting training and seminars for the City regarding federal securities laws; preparing standards and procedures for the City's disclosure practices; assist the City in finalizing and launching a City investor web page; and provide other legal services as requested by the City Attorney's office.

The Firm proposed to provide such services on an hourly basis. The City has determined to accept the Firm's proposal and retain it for the above-referenced purposes. This Second Amended and Restated Agreement for General Disclosure Counsel Services increases the compensation to be paid to the Firm by an additional $500,000; the total amount of the contract with this amendment is $750,000.

FISCAL IMPACT:

The City shall compensate Hawkins Delafield and Wood LLP based on an hourly rate for the services provided. This second amended and restated agreement increases such compensation by $500,000. Pursuant to the agreement, as amended and restated, the maximum amount to be paid to Hawkins Delafield and Wood LLP shall not exceed $750,000, including expenses. These costs shall be shared among various bond-financed projects.

Kelly Salt

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 6:04 p.m. – 6:21 p.m.)

ITEM-S401: San Diego Opera Day.

MAYOR MURPUY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-906) ADOPTED AS RESOLUTION R-300198

Recognizing San Diego Opera for being an invaluable cultural resource in San Diego;

Proclaiming March 7, 2005, to be "San Diego Opera Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:27 p.m.)

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

ITEM-S402: Amending the San Diego Municipal Code Relating to the Time for Hearing the Non-Agenda Public Comment.

(See memorandums from Deputy Mayor Michael Zucchet dated 2/28/2005 and City Attorney dated 3/2/2005.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2005-106) INTRODUCED, TO BE ADOPTED ON MONDAY, APRIL 4, 2005

Introduction of an Ordinance amending Chapter 2, Article 2, Division 1, of the San Diego Municipal Code by Amending Section 22.0101, entitled "Permanent Rules of the Council" by amending Rule 8, all relating to Non-Agenda Public Comment.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:43 p.m. – 3:15 p.m.)

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

ITEM-S403: Payment of Attorney's Fees for City Witnesses in Connection with Securities and Exchange Commission and U.S. Attorney's Office Investigation into Financial Matters.

(See memorandum from City Attorney dated 3/3/2005.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-924) ADOPTED AS RESOLUTION R-300199

Authorizing the additional expenditure of an amount not to exceed $200,000 from the following accounts: $120,560 from Fund No. 81140; $50,180 from Fund No. 41506; and $29,260 from Fund No. 41500, for the purpose of paying attorney's fees for the representation of any past and present City employees related to the interviews and proceedings described above, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

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

SUPPORTING INFORMATION:

In February of 2004, the Securities and Exchange Commission (SEC) and the U. S. Attorney's Office, informed the City that they were undertaking investigations into certain financial disclosure practices by the City. These investigations are ongoing and certain City employees have been asked to participate in interviews and proceedings, including compliance with subpoenas served on past and present employees, related to investigations by the SEC and the U.S. Attorney's Office.

In order to facilitate the conduct of necessary interviews and to cooperate with the ongoing investigations, and yet provide necessary advice to affected City officials and employees, on December 21, 2004, the City Council authorized $150,000 to pay attorney's fees to one or more law firms to provide independent representation to past and present City employees related to the proceedings described above.

Due to the complexity of the issues and the large number of documents that must be reviewed, the initial request for $150,000 is not sufficient to provide for attorneys fees necessary to assist the City witnesses during their participation in the proceedings. Accordingly, this 1472 requests an additional amount, not to exceed $200,000, and will be apportioned among affected past and present employees. The City Attorney will continue to monitor the contracts on behalf of the City. It is also recommended that the City again reserve its right to terminate the payment of fees and seek reimbursement of fees paid in the event that criminal charges are brought against any official or employee, or if a conviction is obtained.

Aquirrel/Ewell

Aud. Cert. 2500802.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:21 p.m. – 6:25 p.m.)

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

ITEM-S404: Audit Committee of the City of San Diego

(Citywide)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2005-) TRAILED TO TUESDAY, MARCH 8, 2005

In order for the City to achieve the full benefit of the work of Kroll Associates, Inc. under an agreement with the City dated February 10, 2005, the City Council affirms to the City's outside Auditor, KPMG, and all interested parties that, for the purposes described in such agreement, Mr. Lynn Turner, Mr. Troy Dahlberg, and Mr. Arthur Levitt are serving as the Audit Committee of the City as contemplated by the Sarbanes-Oxley Act of 2002 (Pub. L. 107-204, 116 Stat. 745).

Subitem-B: (R-2005-) TRAILED TO TUESDAY, MARCH 8, 2005

In order for the City to expedite the work of the Audit Committee and facilitate the release of the audit letter by the City's independent auditor as well as to demonstrate the continued cooperation by the City of San Diego with the inquiries of the U.S. Securities and Exchange Commission and the U.S. Attorney for the Southern District of California, the City Council approves of the execution of a letter of cooperation.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 5:53 p.m. – 5:53 p.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 6:27 p.m. in honor of the memory of:

Lane Michelle Lyon as requested by Council Member Peters, and
Patricial Valva as requested by Council Member Maienschein.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:25 p.m. – 6:27 p.m.)