

THE CITY OF SAN DIEGO, CALIFORNIA  
 MINUTES FOR REGULAR COUNCIL MEETING  
 OF  
 MONDAY, MAY 16, 2005  
 AT 2:00 P.M.  
 IN GOLDEN HALL SAN DIEGO CONCOURSE  
 202 “C” STREET  
 SAN DIEGO, CALIFORNIA 92101

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Mayor Murphy at 2:13 p.m. Mayor Murphy recessed the meeting at 4:19 p.m. into Closed Session in the Golden Hall conference room. Mayor Murphy reconvened the meeting at 4:45 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 4:46 p.m. to convene the Budget Review Committee. Mayor Murphy reconvened the regular meeting at 4:47 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 4:52 p.m. to reconvene the Budget Review Committee. Mayor Murphy reconvened the regular meeting at 7:50 p.m. with Deputy Mayor Zucchet and Council Members Madaffer and Inzunza not present. Mayor Murphy adjourned the meeting at 7:56 p.m. into Closed Session in the Golden Hall conference 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-Maland (ek)

FILE LOCATION:                      MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

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

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Pastor Don Marohn of First Lutheran Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Deputy Mayor Michael Zucchet.

FILE LOCATION: MINUTES



[ITEM-30:](#) Emergency Medical Services Week.

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1135) ADOPTED AS RESOLUTION R-300444

Recognizing the value and the accomplishments of emergency medical service providers;

Proclaiming May 15 – 21, 2005, to be “Emergency Medical Services Week” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:18 p.m. – 2:22 p.m.)

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



ITEM-31: The Burn Institute Day.

**COUNCILMEMBER MAIENSCHIN’S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1164) ADOPTED AS RESOLUTION R-300445

Recognizing the vital services that the Burn Institute has provided the citizens of San Diego;

Proclaiming May 16, 2005, to be “The Burn Institute Day” in the City of San Diego.

FILE LOCATION: AGENDA

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

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

CLOSED SESSION:

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

***CS-1 Erin Snow and Lisa Darling v. City of San Diego, et al.***  
United States District Court Case No. 03cv527LAB (BLM)

REFERRED TO CLOSED SESSION OF MONDAY, MAY 16, 2005

DCA assigned: Mark Stiffler

This case involves a complaint for damages in federal court filed by two female lifeguards alleging gender discrimination in the promotional practices of the Lifeguard Service. In closed session the City Attorney will recommend that City Council approve a tentative settlement.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:34 p.m. – 2:34 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 MONDAY, MAY 16, 2005

CDCA assigned: Michael McGuinness

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 request additional funding for the retention of the outside counsel, 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: 2:34 p.m. – 2:34 p.m.)

**Conference with Legal Counsel – anticipated litigation, pursuant to California Government Code section 54956.9(b):**

***CS-3 Furgatch v. San Diego Unified Port District, et al.***  
San Diego Superior Court No. GIC 744288

REFERRED TO CLOSED SESSION OF MONDAY, MAY 16, 2005

ACA assigned: Leslie J. Girard

This case concerns the Purchase and Sale Agreement between the City and Port District for the parking lot commonly known as Tailgate Park, near Petco Park. In closed session the City Attorney will advise the Mayor and City Council on the status of the case.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

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

***CS-4 Pyatt v. City of San Diego and Nettleton v. City of San Diego***  
Claim numbers: LP05-0534-2006 and LP05-0534-2049

REFERRED TO CLOSED SESSION OF MONDAY, MAY 16, 2005

DCA assigned: Claudia Silva

This litigation concerns two properties damaged in the February 2005 rains. In closed session the City Attorney and Risk Management will update the City Council on the status of the matters and seek further direction.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

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

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

CS-5 Property:	Tailgate Park
Agency Negotiator	Leslie J. Girard, Assistant City Attorney
Negotiating Parties:	City of San Diego and San Diego Unified Port District
Under Negotiation:	Status of satisfaction of all conditions necessary to complete transfer of Tailgate Park to the Port District

REFERRED TO CLOSED SESSION OF MONDAY, MAY 16, 2005

ACA assigned: Leslie J. Girard

This matter concerns the parking lot commonly known as Tailgate Park near Petco Park. The City and the Port District entered into a Purchase and Sale Agreement whereby the Port would purchase Tailgate Park from the City. In closed session, the City Attorney will report on the status of the transaction and seek direction with respect to satisfaction of the terms of the Agreement.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

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

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

CS-6 *Agency negotiators:* **Lamont Ewell, Bruce Herring, Mike McGhee**

REFERRED TO CLOSED SESSION OF MONDAY, MAY 16, 2005

Employee organizations:	Municipal Employees Association, Local 127 AFSME, AFL-CIO, Local 145 International Association of Firefighters AFL-CIO, San Diego Police Officers Association, The Deputy City Attorneys Association of San Diego
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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: 2:34 p.m. – 2:34 p.m.)

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

**CS-7 Agency negotiators: Lamont Ewell, Bruce Herring, Mike McGhee**

REFERRED TO CLOSED SESSION OF MONDAY, MAY 16, 2005

CLOSED SESSION PUBLIC TESTIMONY:

CLOSED SESSION COMMENT-1:

Joan Raymond commented on the financially difficult times in which the City finds itself, and the stabilization of the retirement program for Local 127 workers.

CLOSED SESSION COMMENT-2:

Curt Ostrander commented on the essential core services his association provides for the City of San Diego, which include maintaining water quality. Mr. Ostrander also commented on the pension benefit costs.

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

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: 2:35 p.m. – 2:47 p.m.)

ITEM-50: First Amendment to Right-of-Way Use Agreement with NextG Networks of California, Inc.

(See City Manager Report CMR-05-082).

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2005-111) CONTINUED TO MONDAY, MAY 23, 2005,  
WITH DIRECTION

Introduction of an Ordinance authorizing the City Manager to execute, for and on behalf of the City of San Diego, a First Amendment to the Nonexclusive Right-of-Way Use Agreement between the City of San Diego and NextG Networks of California, Inc., under the terms and conditions set forth in the First Amendment to the Nonexclusive Right-of-Way Use Agreement.

Staff: Marc Jaffe – (619) 533-4725  
Paul G. Edmonson – Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:48 p.m. – 2:56 p.m.;  
4:52 p.m. – 4:52 p.m.)

MOTION BY FRYE TO CONTINUE TO MAY 23, 2005 FOR FURTHER REVIEW WITH DIRECTION BY COUNCIL MEMBER MADAFFER THAT THE CITY MANAGER PROVIDE ADDITIONAL INFORMATION BEYOND WHAT IS CONTAINED IN THE MANAGER'S REPORT No. 05-082 DATED MAY 11, 2005, IN

ORDER TO ANSWER ANY QUESTIONS THAT COUNCIL MEMBERS MAY HAVE BEFORE IT COMES BACK. Second by Inzunza. 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: Transfer of Funds to the Infrastructure Fund for Council District No. 1.

**COUNCILMEMBER PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1036) ADOPTED AS RESOLUTION R-300446

Authorizing the City Auditor and Comptroller to transfer funds in the amount of \$31,070.29 from the PC Replacement Fund for Council District 1 (Dept. No. 50063, Org. No. 6021, Object Account No. 4881, Job Order No. 603901) to the Infrastructure Fund for Council District 1 (Fund No. 10529, Dept. No. 10529, and Org. No. 1000);

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$31,070.29 from the Infrastructure Fund for Council District 1 (Fund No. 10529, Dept. No. 10529, and Org. No. 1000) consistent with the purposes for which the fund was established.

Aud. Cert. 2500926.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:33 p.m.)

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

ITEM-101: Balboa Park Sewer Lateral Replacement Transfer of Funds.

(Balboa Park Community Area. District 3.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1121 Cor. Copy) ADOPTED AS RESOLUTION R-300447

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$60,000 from CIP-21-834.0, Balboa Park – Reconstruction Reserve, Job Order 218445, Fund No. 102244, Balboa Park CIP – Transient Occupancy Tax to CIP-21-865.0, Sewer Lateral Replacement for Balboa Park;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$60,000 from CIP-21-865.0, Sewer Lateral Replacement for Balboa Park, in Fund No. 102244, Balboa Park CIP – Transient Occupancy Tax, for the purpose of replacing the sewer laterals in Balboa Park.

**CITY MANAGER SUPPORTING INFORMATION:**

This request will authorize the transfer of additional funds to CIP-21-865.0, Sewer Lateral Replacement for Balboa Park for the purpose of replacing 11 sewer laterals in the southwest portion of Balboa Park. These laterals were identified via Closed Circuit Televising (CCTV) during Phase I, where 49 sewer laterals were televised as part of a multi-phased plan to replace dilapidated sewer laterals throughout Balboa Park. The CCTV indicated that 15 laterals actually need replacement, and that a new sewer main should be constructed. However, due to lack of sufficient funding, Park & Recreation will proceed with only these 11 lateral replacements. This contract work will be completed through the Park & Recreation Department's General Requirements Contract Program. This request will increase the total CIP budget to \$240,574.

**FISCAL IMPACT:**

Funds for these transfers are available in CIP-21-340.0, Balboa Park - Reconstruction Reserve, Job Order 218445, Fund No. 102244, Balboa Park CIP (Transient Occupancy Tax).

Herring/Oppenheim/AP

Aud. Cert. 2500953.

Staff: April Penera – (619) 533-6526  
Shannon M. Thomas – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:33 p.m.)

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

\* ITEM-102: Common Use Agreement with Caltrans for Property Located at Interstate 15 and Polk Avenue.

(Normal Heights Community Area. District 3.)

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1115) ADOPTED AS RESOLUTION R-300431

Authorizing the City Manager or his duly designated representative to execute a Consent to Common Use Agreement with the State of California, Document No. 29201-1, regarding the shared use of certain property located at Interstate 15 and Polk Avenue.

**CITY MANAGER SUPPORTING INFORMATION:**

In February 1996, the City of San Diego entered into a Utility Agreement with the State of California, Department of Transportation (Caltrans) for the relocation of water facilities located at the I-15 and Polk Street. Caltrans was constructing a portion of the I-15 freeway which would impact City water facilities within an easement along the 40<sup>th</sup> Street corridor. As the City had superior and prior rights to the easement, the facilities were relocated at Caltrans expense. Construction of the relocated facilities was complete in 2000.

The new Caltrans highway right-of-way now occupies a portion of the City's easement. The Consent to Common Use Agreement recognizes the City's title to the easement and its prior

rights under that easement. Caltrans will be liable for the cost of any future relocation of these water facilities. The City will also have access to these water facilities for all purposes for which the original easement was acquired. Once executed, this Agreement will be recorded with the San Diego County Recorder's office.

**FISCAL IMPACT:**

None.

Mendes/Belock/MKS

Staff: Michele Stitzel – (619) 533-5321

Lori W. Girard – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:33 p.m.)

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

\* ITEM-103: Negotiation Agreement with Paragon Practice Park LLC, Regarding the Potential Development of a Baseball and Golf Learning Center at the South Chollas Landfill.

(Oak Park and Chollas Lake Community Areas. Districts 4 and 7.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1133) ADOPTED AS RESOLUTION R-300432

Authorizing the City Manager to execute an exclusive negotiation agreement with Paragon Practice Park, LLC, regarding the potential development of a baseball and golf learning center at the South Chollas Landfill (Project), under the terms and conditions set forth in the Exclusive Negotiation Agreement;

Authorizing the City Manager to negotiate a development lease agreement with Paragon Practice Park, LLC, for the potential development of the Project;

Authorizing the City Manager to accept the amount of \$10,000 from Paragon Practice Park, LLC, as a non-refundable payment of the Real Estate Assets Department's transaction processing fees for the Project.

**CITY MANAGER SUPPORTING INFORMATION:**

Paragon Practice Park LLC "Paragon" submitted an unsolicited proposal for recreational development on the South Chollas Landfill. On June 7, 2004, City Council authorized the City Manager to negotiate an Exclusive Negotiating Agreement (ENA) with Paragon for the development of a baseball and golf learning center at South Chollas Landfill based on the "conditions for future development" as outlined in the City Manager's Report 04-088.

Paragon's proposal has strong community support and approval from the Oak Park Community Council and Chollas Lake Recreation Council. Paragon is responsible for obtaining approvals and associated costs from the City's Development Services Department, the Solid Waste Local Enforcement Agency, the Regional Water Quality Control Board, and from other applicable regulatory agencies. This agreement does not affect the right of any of these agencies, including the City, to deny or condition approvals.

If the parties are successful in negotiating a proposed DLA, the proposed DLA will be brought to Council for consideration and approval.

**FISCAL IMPACT:**

Developer will pay the City a non-refundable fee of \$10,000 for payment of Real Estate Assets Department transaction processing fees.

Mendes/Heap/SC

Staff: Sylvia Castillo – (858) 492-5032  
Grace C. Lowenberg – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:33 p.m.)

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

- \* ITEM-104: First Amendment to Agreement with Luth and Turley, Inc. for Replacement Construction of the Irving Salomon Activity Center.

(San Ysidro Community Area. District 8.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1111) ADOPTED AS RESOLUTION R-300433

Authorizing the City Manager to execute, for and on behalf of the City of San Diego, a Fifth Amendment to Agreement with Luth and Turley, Inc., for the purpose of replacement construction of the Irving Salomon Activity Center, in the amount of \$589,210, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$589,210 from the following sources: Fund No. 10155, Dept. No. 10155, OA No. 4222, and JO No. 010155, San Ysidro Community Center (\$79,123); Fund No. 10220, TOT, Dept. No. 924, Org No. 3013, OA No. 4222, and JO No. 003013 (\$124,385); Fund No. 100, P&R/Community Parks II, Dept. No. 444, Org. No. 2003, OA No. 4222, and JO No. 447223 (\$24,987); and Fund No. 81140, Public Liability Reserve, Dept. No. 81140, OA No. 4222, and JO No. 082240 (\$360,715), for the purpose of executing this Fifth Amendment to Agreement.

**CITY MANAGER SUPPORTING INFORMATION:**

On February 17, 2002 an arson fire caused considerable damage to the San Ysidro Community Center, more particularly described as the Irving Salomon Activity Center, at 179 Diza Road, San Diego, California. The City of San Diego filed a claim with CSAC-Excess Insurance Agency, with which the City has a fire insurance policy. During the negotiations, it was agreed that the City would enter into an agreement with the insurance carrier's low bid contractor for repairs in the amount of \$741,548. In addition, during the investigation of the fire damage it was discovered that water damage existed on the walls in the part of the building that was not burned.

As the work progressed, it was discovered that additional funding for repair of other pre-existing conditions was needed. The building could not be completed by the fire insurance contract without City contributions for these pre-existing conditions. Therefore, the City entered into three increases (1<sup>st</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> amendments) to the original contract totaling \$148,384 for such.

The second amendment to the agreement provided for adjustments in the scope of work to bring the building into Americans with Disabilities Act (ADA) and California Building Code Compliance. No increase to the agreement was requested at the time of second amendment because the City needed authorization from the insurance companies to increase the original contract. This action proposes a fifth amendment to the agreement to provide funding for the increased scope of work needed to meet regulatory compliance and security due to repeated vandalism at the site.

**FISCAL IMPACT:**

Funding for this action is available from the following sources: the Public Liability Reserve (Fund No. 10155) in the amount of \$360,715; San Ysidro Community Center (Fund No. 10155) in the amount of \$79,123; Transient Occupancy Tax (Fund No. 10220) in the amount of \$124,385. Funding in the amount of \$64,005 from San Ysidro Community Center Fund (\$39,018) and Park and Recreation Department/Community Parks II Division (\$24,987) has already been expended. The total cost of the replacement construction (\$1,479,142) is reimbursable through the City's fire insurance policy (\$1,181,373) excluding the following items: insurance deductible (\$25,000); security (\$124,385) and repair of non-fire related damage (\$148,384).

Herring/Oppenheim/AP

Aud. Cert. 2500907.

Staff: April Penera – (619) 525-8223  
Shannon M. Thomas – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:33 p.m.)

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

\* ITEM-105: Grant Application to Department of Homeland Security Federal Emergency Management Agency (FEMA) for Assistance to Firefighters Communication Interoperability.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1130) ADOPTED AS RESOLUTION R-300448

Authorizing the City Manager to approve the application to the Department of Homeland Security-Federal Emergency Management Agency (FEMA) U.S. Fire Administration for a grant in the amount of \$684,213 from the Assistance to Firefighters Grant Program for a communications interoperability program;

Authorizing the City Manager to take all necessary actions to secure grant funding and enter into an agreement for this project;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend funds if grant is awarded;

Authorizing the City Auditor and Comptroller to establish a special fund for this grant;

Declaring that the City of San Diego has or will have available, prior to start of this program, the required grant match, contingent upon the approval of the FY2006 budget and the issuance of an Auditor's Certificate in the required amount.

**CITY MANAGER SUPPORTING INFORMATION:**

The U.S. Fire Administration manages the Assistance to Firefighters Grant Program for the Department of Homeland Security, Federal Emergency Management Agency (FEMA). The intent of this program is the provision of grant funding to local fire departments for the protection of the health and safety of the public and firefighting personnel from fire and fire related hazards.

Large scale emergency incidents such as the Cedar Fire require multi-disciplinary and multi-agency cooperation and communication for effective and safe response. The absence of interoperable communications equipment is a major obstacle to achieving this goal.

San Diego Fire-Rescue Department requests approval for its application for grant funding to be applied to the acquisition, staffing and operation of two regional emergency communications interoperability trailers. Replacing a currently outmoded 15 year old mobile communications vehicle and technology, the proposed program will position and equip two communications trailers such that communication throughout the county would be maintained even in a worst case emergency scenario. During a small scale incident, the trailers would act as self-contained command/control centers, capable of coordinating voice and data communication within the city. For large scale incidents or those which overlap into multiple jurisdictions, the equipment would be compatible with that of other existing communications vehicles within San Diego County.

**FISCAL IMPACT:**

The total cost of this program is estimated at \$855,266. If the grant is awarded, the City of San Diego will receive \$684,213 from the Department of Homeland Security, FEMA. Matching funds in the amount of \$171,053 will be provided by the City, upon finalization of the FY2006 Fire-Rescue Department budget.

Ewell/JB/MM

Staff: Monica Morgan – (619) 533-4304  
Joseph R. Sanchez – Deputy City Attorney

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 2:24 p.m. – 2:33 p.m.)

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

\* ITEM-106: Grant Application to U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance (BJA) for Community Prosecution Projects in the Bay Area.

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1166) ADOPTED AS RESOLUTION R-300449

Authorizing the City Attorney to apply for, accept, and expend, if grant funding is secured, a grant of \$200,000 from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance (BJA), for conduct of community prosecution projects in the Pacific Beach, Mission Beach, and Mission Bay Park communities, collectively known as the Beach Area of San Diego, as described in the Grant Application.

**SUPPORTING INFORMATION:**

The City Attorney's Office has applied for \$200,000 grant from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance (BJA). This grant covers the two year time frame of October 3, 2005 through October 2, 2007.

This community-based problem-solving criminal justice initiative involves the planning and implementation of a community court to serve the Pacific Beach, Mission Beach, and Mission Bay Park communities, known as the Beach Area, in the City of San Diego. The lead agency is the San Diego City Attorney's Office, working in partnership with the San Diego Police Department, San Diego Superior Court, other criminal justice agencies, and community-based organizations.

The proposed Beach Area Community Court will be a prosecutorial diversion program for adult offenders who commit misdemeanors and infractions, especially low-level alcohol-related offenses, that impact quality of life. Eligible offenders who choose to participate will be diverted from the San Diego Superior Court. They will be held accountable to the community by attending a community impact panel and performing community work service. They will also participate in a brief substance abuse screening tool and obtain referrals to educational and rehabilitative programs to curb future criminal conduct, with compliance closely monitored. Community members will serve on an Advisory Board, overseeing the Court's development and implementation.

Linley

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:33 p.m.)

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

\* ITEM-107: Women's Foundation Day.

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1125) ADOPTED AS RESOLUTION R-300450

Commending the Women's Foundation for the work they do to improve the quality of life for all women and their communities;

Proclaiming May 17, 2005, to be "Women's Foundation Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:33 p.m.)

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

\* ITEM-108: Excusing Councilmember Madaffer from Attending the Special City Council Meeting and City Council Budget Hearing of May 2, 2005.

**COUNCILMEMBER MADAFFER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1145) ADOPTED AS RESOLUTION R-300451

Excusing Councilmember Jim Madaffer from attending the Special City Council Meeting and City Council Budget Hearing on May 2, 2005.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:33 p.m.)

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

- \* ITEM-109: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District 8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-807) ADOPTED AS RESOLUTION R-300452

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L-State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:33 p.m.)

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

- \* ITEM-110: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-1077) ADOPTED AS RESOLUTION R-300453

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

**CITY MANAGER SUPPORTING INFORMATION:**

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

**FILE LOCATION:** GEN'L- Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV)

**COUNCIL ACTION:** (Time duration: 2:24 p.m. – 2:33 p.m.)

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

\* ITEM-111: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-594) ADOPTED AS RESOLUTION R-300440

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L- State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:33 p.m.)

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

\* ITEM-112: Appointments and Reappointments to the Historical Resources Board.

(See memorandum from Mayor Murphy dated 4/14/2005 with resumes attached and memorandum from Councilmember Madaffer dated 2/9/2005.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1102) ADOPTED AS RESOLUTION R-300441

Council confirmation of the following appointments and reappointments by the Mayor of the City of San Diego, to serve as members of the Historical Resources Board, for terms ending as indicated:

<b><u>Reappointments</u></b>	<b><u>Term Ending</u></b>
Laura Burnett (Little Italy, District 2)	March 1, 2007
Edward Lynch (East Village, District 2)	March 1, 2007
Delores A. McNeely (Point Loma, District 2)	March 1, 2007
Dr. Jerry Schaefer, PhD (Normal Heights, District 3)	March 1, 2007
Lloyd A. Schwartz, Chair (Mission Hills, District 2)	March 1, 2007

Abel Silvas  
(Pacific Beach, District 2) March 1, 2007

**Appointments**

Donald H. Harrison  
(San Carlos, District 7) March 1, 2007  
(Replaces James H. Ahern, whose term expired)

Donna Jones  
(Scripps Ranch, District 5) March 1, 2007  
(Replaces Larry P. Malone, whose term has expired)

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 2:24 p.m. – 2:33 p.m.)

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

\* ITEM-113: Excusing Councilmember Zucchet from the City Council Meeting of May 3, 2005.

**DEPUTY MAYOR ZUCCHET'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1175) ADOPTED AS RESOLUTION R-300442

Excusing Councilmember Michael Zucchet from attending the regularly scheduled City Council meeting on May 3, 2005.

**FILE LOCATION:** AGENDA

**COUNCIL ACTION:** (Time duration: 2:24 p.m. – 2:33 p.m.)

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

ITEM-200: Recommendations of the Salary Setting Commission Regarding Salaries for the Mayor and Council for Fiscal Year 2006.

**PERSONNEL DIRECTOR'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1171) ADOPTED AS RESOLUTION R-300426

Declaring that the determination and recommendations of the Salary Setting Commission, as contained in its letter of recommendation to the Mayor and Council, dated February 3, 2004, have been considered and the salaries for the Mayor and Council for Fiscal Year 2006 to be included in the Annual Salary Ordinance.

**PERSONNEL DIRECTOR SUPPORTING INFORMATION:**

Section 41.1 of the Charter of the City of San Diego establishes a Salary Setting Commission to recommend to the Council salaries for the Mayor and Council. In a letter dated February 3, 2004, the Commission recommended a two-step increase in annual compensation for the Mayor and City Councilmembers, the first step to be effective July 1, 2004, and the second step to be effective July 1, 2005. On May 4, 2004, the Council adopted Resolution Number R-299170 declining to take the first step of the recommended increase and deferring until consideration of the Fiscal Year 2006 Salary Ordinance the Commission's recommendation for Fiscal Year 2006. The current salaries are: Mayor - \$100,464; City Council - \$75,386. The Salary Setting Commission recommendations for Fiscal Year 2006 are: Mayor - \$107,619; City Council - \$80,756.

Snapper

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:47 p.m. – 4:51 p.m.)

MOTION BY MADAFFER TO ADOPT THE RESOLUTION TO REJECT ANY INCREASE OF SALARY FOR THE MAYOR AND CITY COUNCIL. 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-201: In the Matter of Impasse Procedure.

IMPASSE PROCEDURE PROVIDED

**TODAY'S ACTION IS:**

Providing an impasse procedure, if necessary, for Management and Labor Organizations currently involved in negotiations.

**CITY MANAGER SUPPORTING INFORMATION:**

The current Memorandum of Understanding and Council Policy 300-6 provide that Labor Organizations have a right to a Council hearing on any issues at impasse at the conclusion of negotiations.

The purpose of the impasse meeting shall be to identify and specify in writing the issue or issues that remain in dispute; to review the position of the parties in a final effort to resolve such disputed issue or issues; and if the dispute is not resolved, to discuss arrangements for the utilization of the impasse procedure contained in Council Policy 300-6.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:56 p.m. – 4:19 p.m.)

ITEM-250: **Notice** of Pending Final Map Approval – 1620 Elm Avenue Condominiums.

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 “1620 Elm Avenue Condominiums” (T.M. No. 23368/PTS No. 42581), located northeasterly of Elm Avenue and 16<sup>th</sup> Street in the Otay Mesa-Nestor Community Plan Area in Council District 8, 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 – Carmel Valley Neighborhood 10 Unit 12 South.**

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 “Carmel Valley Neighborhood 10 Unit 12 South” (T.M. No. 93-0141/PTS No. 32835), located northwesterly of Carmel Mountain Road and Carmel Country Road in the Carmel Valley 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 Palisades.**

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 Palisades” (T.M. No. 71347/PTS No. 40958), located northeasterly of Polk Avenue and Florida Street 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-S400: Appointment of David Ferguson to the Local Enforcement Agency Hearing Panel.

(See memorandum from Mayor Murphy dated 5/11/2005, with resume attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1196 Cor. Copy) ADOPTED AS RESOLUTION R-300443

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Local Enforcement Agency Hearing Panel, for a term ending January 1, 2006:

<b><u>NAME</u></b>	<b><u>CATEGORY</u></b>
David Ferguson (Tierrasanta, District 7) (Replacing Thomas Day, whose term has expired)	Public At Large

**FILE LOCATION:** AGENDA

**COUNCIL ACTION:** (Time duration: 2:24 p.m. – 2:33 p.m.)

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

**NON-DOCKET ITEMS:**

None.

**ADJOURNMENT:**

The meeting was adjourned by Mayor Murphy at 7:56 p.m. in honor of the memory of:

Brittany Curcio as requested by Council Member Maienschein;  
Virginia H. Nash as requested by Council Member Toni Atkins; and  
Jack Katz as requested by Assistant City Attorney Les Girard.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 7:50 p.m. – 7:56 p.m.)