THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, SEPTEMBER 19, 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 Deputy Mayor Atkins at 2:06 p.m.

Deputy Mayor Atkins announced that on Friday, September 16, 2005, fourteen members of the Swift Water Rescue Team returned to San Diego from the gulf region and that 80 members of the Urban Search and Rescue Team returned from the gulf region as well. A welcome-home will be planned for all of these individuals at a time when the public can participate and say thank you.

Deputy Mayor Atkins recessed the meeting at 3:58 p.m. for the purpose of a break. Deputy Mayor Atkins reconvened the meeting at 4:05 p.m. with all Council Members present and District 2, District 8 and Mayor vacant. Deputy Mayor Atkins recessed the meeting at 6:35 p.m. to convene the Redevelopment Agency. Deputy Mayor Atkins reconvened the regular meeting at 6:36 p.m. with all Council Members present and District 2, District 8 and Mayor vacant. The meeting was adjourned by Deputy Mayor Atkins at 6:37 p.m.

ATTENDANCE DURING THE MEETING:

(M) Mayor-vacant

(1) Council Member Peters-present

(2) Council District 2-vacant

(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 District 8-vacant

Clerk-Maland (ek)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

(M) Mayor-vacant
(1) Council Member Peters-present
(2) Council District 2-vacant
(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 District 8-vacant

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Pastor Russ Locke of
Nestor United Methodist Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Scott Peters.

FILE LOCATION: MINUTES

ITEM-30: Scripps Ranch Old Pros Day.

COUNCILMEMBER MAIENSCHEIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-220) ADOPTED AS RESOLUTION R-300828

Recognizing Scripps Ranch Old Pros for their service and dedication to the children of San Diego;

Proclaiming September 19, 2005, to be "Scripps Ranch Old Pros Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:09 p.m. – 2:14 p.m.)

MOTION BY MAIENSCHEIN TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

ITEM-31: Solar Energy Week.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-209) ADOPTED AS RESOLUTION R-300829

Proclaiming September 25 – October 1, 2005, to be "Solar Energy Week" in the City of San Diego, and urging all citizens to celebrate Solar Energy Week and support efforts to protect our environment.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:21 p.m.)

MOTION BY FRYE TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

CLOSED SESSION:

CS-1 ***People of the State of California v. City of San Diego***
San Diego Superior Court No. GIC 835383-1

DCA assigned: D. Smith

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 20, 2005

This case involves an eminent domain action in which CalTrans seeks to condemn a portion of the City's property as a part of the Interstate 125 freeway project. The City has two water pipelines on the property. In closed session, the City Attorney will update the City Council on the status of the litigation and seek direction on Plaintiff's most recent offer to settle the case.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:33 p.m. – 6:33 p.m.)

Deputy Mayor Atkins closed the hearing.

CS-2 ***Westbrook Torrey Hills LLP v. City of San Diego***
San Diego Superior Court No. GIC 824491

DCA assigned: C. Silva

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 20, 2005

This case involves a complaint for breach of contract and declaratory relief. In closed session, the City Attorney will update the City Council on the status of the litigation and seek direction.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:34 p.m. – 6:34 p.m.)

Deputy Mayor Atkins closed the hearing.

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
SDSC Case No. GIC 753247
National Enterprises, Inc. v. City of San Diego
SDSC Case Nos. GIC 791407; GIC 805465

ACA assigned: L. Girard

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 20, 2005

These matters involve a variety of disputes between certain companies owned or controlled by Roque de la Fuente and the City of San Diego 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.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:34 p.m. – 6:34 p.m.)

Deputy Mayor Atkins closed the hearing.

CS-4 In Re: SEC Investigation into City Bond and Disclosure Practices

ACA assigned: D. McGrath

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 20, 2005

In closed session the City Attorney and the law firm of Morgan Lewis and Bachius will discuss the SEC ongoing investigation into the City's bond and disclosure practices and a tentative draft consent decree.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:34 p.m. – 6:34 p.m.)

Deputy Mayor Atkins closed the hearing.

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

CS-5 In Re: David Cowan

ACA assigned: D. McGrath

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 20, 2005

The City has received a letter from an attorney representing David Cowan that requests that the City reimburse Mr. Cowan for attorney's fees incurred in connection with the case *U.S. v. Cowan, et. al*, Case No. 03CR2434-JM. In closed session the City Attorney will report on this matter and seek appropriate direction.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:35 p.m. – 6:35 p.m.)

Deputy Mayor Atkins closed the hearing.

Threat to public services or facilities, pursuant to California Government Code section 54957:

CS-6 In Re: Water Department Security of Public Services and Facilities

DCA assigned: J. Kirk

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 20, 2005

Consultation with: Vic Bianes, Deputy Director, Water Department and Augie Ghio, Director of the City of San Diego Office of Homeland Security.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:35 p.m. – 6:35 p.m.)

Deputy Mayor Atkins closed the hearing.

* ITEM-50: Emergencies and Major Disasters Unfair Pricing Practices.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/6/2005, Item S502, Subitem B. (Council voted 6-0. District 2-vacant, District 8-vacant, and Mayor-vacant):

(O-2006-33) ADOPTED AS ORDINANCE O-19411 (New Series)

Amending Chapter 5, Article 1, of the San Diego Municipal Code by adding a New Division 2, Sections 51.0201, 51.0202, 51.0203, and 51.0204, all related to Emergencies and Major Disasters Unfair Pricing Practices.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-51: Amending the San Diego Municipal Code Related to Revisions to the Building Regulations for Buildings in Fire Hazard Areas.

(See City Manager Reports CMR-05-176 and CMR-05-078.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/6/2005, Item 150. (Council voted 6-0. District 2-vacant, District 8-vacant, and Mayor-vacant):

(O-2006-117) ADOPTED AS ORDINANCE O-19412 (New Series)

Amending Chapter 14, Article 5 of the San Diego Municipal Code by adding a new Division 5, and by adding Sections 145.0501, 145.0502, 145.0503, 145.0504, and 145.0505, all relating to Additional Building Standards for Buildings Located Adjacent to Hazardous Areas of Native or Naturalized Vegetation.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-52: Brush Management Revisions to the Land Development Code Resulting from the Cedar Fire.

(See City Manager Report CMR-05-174. Districts-Citywide.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/6/2005, Item 330, Subitem A. (Council voted 6-0. District 2-vacant, District 8-vacant, and Mayor-vacant):

(O-2005-46 COR. COPY) ADOPTED AS ORDINANCE O-19413 (New Series)

Amending Chapter 4, Article 4, Division 3, of the San Diego Municipal Code by amending Section 44.0307, by renumbering Section 44.0307.1 to Section 44.0307(c), all pertaining to health and sanitation; Amending Chapter 5, Article 5, Division 1 by amending Section 55.0101; Amending Chapter 5, Article 5, by repealing Division 92, relating to appendices to the fire code; Amending Chapter 14, Article 2, Division 3, by amending Section 142.0360, pertaining to fence regulations; Amending Chapter 14, Article 2, Division 4, by amending Sections 142.0402; 142.0403 and 142.0412; And amending Chapter 14, Article 3, Division 1, by amending Section 143.0110, all relating to brush management regulations.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-100: Awarding a Contract to Diversified Landscape Company to Provide and Install Irrigation Control Equipment at Mission Bay Park.

(Clairemont Mesa, De Anza Cove, Mission Beach, Linda Vista, and Pacific Beach Community Areas. Districts 2 and 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-204) ADOPTED AS RESOLUTION R-300830

Authorizing the City Auditor and Comptroller to increase by $439,157.66 the Fiscal Year 2006 Capital Improvement Program Budget in CIP-22-962.0, Mission Bay Central Irrigation System, Fund No. 38353, State Proposition 13 Clean Beaches Initiative Grant;

Authorizing the City Auditor and Comptroller to increase by $462,842.34 the Fiscal Year 2006, Capital Improvement Program Budget in CIP-32-050.0, Rose and Tecolote Creeks Water Quality Improvements, State Proposition 13, Clean Beaches Initiative Grant per fully executed agreement with the State Water Control Resource Board;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend $462,842.34 from Rose and Tecolote Creeks Water Quality Improvements CIP-32-050.0;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend $439,157.66 from CIP-22-962.0, Mission Bay Central Irrigation System, Fund No. 38353, State Proposition 13 Clean Beaches Initiative Grant;

Authorizing the City Auditor and Comptroller the transfer of $30,000 from Fund No. 100, Dept. No. 443, Org. No. 3054, Object Account No. 4222 and Job Order No. 030541 Park & Recreation/Development Regional Parks to Fund No. 630221, Contributions from Fund 100;

Authorizing the City Auditor and Comptroller to increase by $30,000 the Fiscal Year 2006 Capital Improvement Program Budget in CIP-22-962.0, Mission Bay Central Irrigation System, Fund No. 630221, Contributions from Fund 100;

Authorizing the City Auditor and Comptroller to appropriate and expend $30,000 from CIP-22-962.0. Mission Bay Central Irrigation System Fund No. 630221, Contributions from Fund 100 for the purpose of Mission Bay Central Irrigation System and related cost;

Accepting the contract to the low bidder meeting specifications, Diversified Landscape Company, to provide and install irrigation control equipment at Mission Bay Park per Bid No. 7431-05-L, for an estimate annual cost of $439,157.66 (including tax), terms net thirty days;

Awarding contract to Diversified Landscape Company to Provide and Install Irrigation Control Equipment at Mission Bay Park as specified per Bid 7431-05-L in the amount of $439,157.66;

Authorizing the City Manager in the event the Contract fails to perform in accordance with the contract specifications, to award the contract to the next low

bidder meeting specifications, contingent upon the City Auditor and Comptroller certifying that any necessary additional funds are available;

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

Declaring that this project is exempt from the California Environmental Quality Act (CEQA) as the repair and maintenance of existing mechanical equipment.

CITY MANAGER SUPPORTING INFORMATION:

The City has an agreement with the State to receive a Costa-Machado Act of 2000 (Proposition 13) grant to implement the Rose and Tecolote Creeks Water Quality Improvement Project. The project, intended to construct best management practices that will improve the water quality of Mission Bay Park, was approved by Council in January 2002 per Resolution R-295927. The Mission Bay Central Irrigation System project is Phase II of the grant funded improvements to Mission Bay Park and will provide for the upgrade of the existing Mission Bay Park irrigation system with a computerized central system. The project will consist of the replacement of existing irrigation controllers and valves at thirty irrigation sites in Mission Bay Park to reduce over-watering and run-off thereby improving the water quality of the bay.

The Storm Water Pollution Prevention Division and the Park and Recreation Department coordinated with the purchasing Division to advertise the "Provide and Install Irrigation Control Equipment at Mission Bay Park" project. On February 17, 2005, the Purchasing Division mailed twenty-five (25) Notice of Bid Opportunities to prospective bidders and advertised the bid in the San Diego Daily Transcript, on the City Web Page and in the Dodge Report. Three (3) bids were received. After an evaluation of the bids submitted, Diversified Landscape Co. was selected as the low, responsible bidder meeting specifications.

The compensation of this contract is in the amount of $439,157.66. The project will be funded from the State Proposition 13 Clean Beaches Initiative Grant, Fund 38353 for installation of the irrigation for the Mission Bay Computerized Central Irrigation System Project.

FISCAL IMPACT:

Funds for this project are available from Fund No. 38353, State Proposition 13 Clean Beaches Initiative Grant in the amount of $439,157.66 and from Fund No. 100, P&R/Developed Regional Parks in the amount of $30,000.

Herring/Medina/AP

Aud. Cert. 2600188.

Staff: Ali Darvishi – (619) 533-6526
Timothy J. Miller – Deputy City Attorney

FILE LOCATION: PURCHASE

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-101: Sunshine Ballfield Improvements.

(See memorandums from Anita C. Pyle dated 8/23/2005, Deputy Mayor Atkins dated 8/5/2005 and 7/28/2005, Councilmember Peters dated 7/27/2005, Councilmember Young dated 7/26/2005, and Councilmember Madaffer dated 7/25/2005. Mid-City Community Area. District 4.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-203) ADOPTED AS RESOLUTION R-300831

Authorizing the addition of CIP-29-894.0, Sunshine Ballfield Improvement, to the Fiscal Year 2006 Capital Improvements Program;

Authorizing a $127,190, increase in the Fiscal Year 2006 Capital Improvements Program Budget in CIP-29-894.0, Sunshine Ballfield Improvements, Fund No. 18541, Community Development Block Grant Fund 2006;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed $127,190, from CIP-29-894.0, Sunshine Ballfield Improvements, Fund No. 18541, Community Development Block Grant Fund 2006 for the purpose of design and construction of improvements at the Sunshine Little League Fields.

CITY MANAGER SUPPORTING INFORMATION:

The Mid-City Athletic Area, a City-owned park, is located on Federal Boulevard, within the Eastern Area of the Mid-City Community Planning Area. The Sunshine Ballfields lie within the Mid-City Athletic Area and are maintained and operated by the Sunshine Ballfield Organization (SBO) under a preferential non-exclusive use and occupancy permit.

This project includes upgrades to the existing path of travel, bleachers, drinking fountains, comfort station, fencing, accessible parking and other site amenities, in accordance with state and federal safety and accessibility requirements.

This funding was originally allocated to the SBO. Council District 4 requested and the SBO concurred that Park Planning and Development Staff of the Park and Recreation Department assist the SBO with these much needed improvements, hence, the request for funding reallocation. Staff has and will continue to coordinate with the SBO on their priorities.

FISCAL IMPACT:

The total project cost is $127,190, and is funded by the Community Development Block Grant in the Fiscal Year of 2006. The SBO will continue to operate and maintain the ballfields. Therefore no budget impact is anticipated by this project.

Herring/Medina/AP

Aud. Cert. 2600177.

Staff: A. Penera – (619) 525-8223
Eric A. Swenson – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:39 p.m. – 2:44 p.m.)

CONSENT MOTION BY YOUNG TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-102: Sixth Amendment to the Joint Powers Agreement Confirming the Creation of an Agency Known as Southern California Coastal Water Research Project Authority.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-133) ADOPTED AS RESOLUTION R-300832

Authorizing the City Manager, for and on behalf of the City, to execute an agreement with the City of Los Angeles, the Orange County Sanitation District, and the County Sanitation District No. 2 of Los Angeles County, for the continuation of the Southern California Coastal Water Research Project Authority through June 30, 2009, under the terms and conditions set forth in the Joint Powers Agreement;

Authorizing the expenditure of an amount not to exceed $1,399,527 from Sewer Fund 41508, Metropolitan Wastewater Department Operating Budget, to provide funds for the Joint Powers Agreement, to be expended as follows:

$336,528 in Fiscal Year 2006;

$345,278 in Fiscal Year 2007;

$354,255 in Fiscal Year 2008;

$363,466 in Fiscal Year 2009;

with funding for Fiscal Years 2007-2009 contingent on the Council's approval of funding for this purpose in the respective years' operating budgets and provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that funds necessary for this expenditure are, or will be, on deposit with the City Treasury.

CITY MANAGER SUPPORTING INFORMATION:

The Southern California Coastal Water Research Project (SCCWRP) is a joint project authority which was created in 1969 for the purpose of increasing the scientific knowledge of how treated wastewater discharges, storm water discharges and other human activities interact to affect Southern California's coastal aquatic ecological systems, and thereby to ensure protection of these resources.

The study area extends from the United States/Mexico border to the Santa Barbara County line. The City of San Diego is a founding member of the Joint Powers Authority. There are four principal members which provide the funding for this joint project authority: (1) City of Los Angeles; (2) Orange County Sanitation District; (3) City of San Diego; and (4) County Sanitation District No. 2 of Los Angeles County. Also participating are the United States Environmental Protection Agency, State Water Resources Control Board, and three Regional Water Quality Control Boards representing the San Diego, Los Angeles, and Orange County Regions.

The term of this agreement is for four years, beginning with fiscal year 2006. Execution of this agreement obligates the City for the first year of the four year term. Withdrawal provisions are included within the agreement for years two, three, and four.

An alternative to participation in the SCCWRP would be for the City of San Diego to hire specific consultants, on a case by case basis, to accomplish this work. This alternative is not recommended, however, as it would result in inefficiencies, additional costs and loss of City input that results from the cooperative working relationship with the regulators and other dischargers that are part of the SCCWRP.

FISCAL IMPACT:

Fiscal impact to the City of San Diego over the four years of the agreement would be as follows: (1) FY 2006, $336,528; (2) FY 2007, $345,278; (3) FY 2008, $354,255; and (4) FY 2009, $363,466. The first-year cost of executing the Sixth Amended Joint Powers Agreement for the Southern California Coastal Water Resources Project Authority is $336,528 and is available in the FY 2006 Operating Budget, Sewer Fund 41508.

Mendes/Tulloch/AL

Aud. Cert. 2600083.

Staff: Alan Langworthy – (619) 758-2300
Thomas C. Zeleny – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-103: Library Services and Technology Act Grant from California State Library for Community Program Youth Voices Barrio Logan.

(Central/Barrio Logan Community Area. Districts 2, 3, and 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-169) ADOPTED AS RESOLUTION R-300833

Authorizing the City Manager to accept and expend Library Services and Technology Act grant funds from the California State Library in the amount of $136,367, for the purpose of producing the community program "Youth Voices Barrio Logan";

Authorizing the City Manager to submit all documents, negotiate, and execute all agreements necessary, including any amendments, to comply with the grant requirements and to carry out and administer all obligations, responsibilities, and duties under the grant;

Authorizing the City Auditor and Comptroller to establish a fund for the purpose of handling the accounting to facilitate the process of tracking revenue and expenditures for this project.

CITY MANAGER SUPPORTING INFORMATION:

The San Diego Public Library is requesting authorization to accept and expend funding from the California State Library Services and Technology Act, and to establish a fund for the purposes of tracking grant revenue and expenditures for the purpose of producing the "Youth Voices Barrio Logan" program.

In partnership with the Media Arts Center San Diego, High Tech High, High Tech Middle School, National Latino Research Center, Barrio College Institute, Memorial Academy, and MAACSD, the proposed digital storytelling project would directly benefit teenagers and adults in the Barrio Logan area of San Diego through a series of educational workshops. In addition to learning technical skills, the young people will connect with their history through the documentation and preservation of local stories. Community screenings will be offered to the community at large, and the digital videos will be made available on DVDs and become part of the Central Library's media collection.

FISCAL IMPACT:

The materials will be paid for with $136,367 in grant funding from the California State Library, with in kind matches of salaries and operational costs from the San Diego Public Library general fund budget, and from the library's partners in this project.

Herring/Tatar/DLP

Staff: Carol Young – (619) 236-5889
Stephanie Rahlfs – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-104: Creekside Village Sewer Vacation.

(Nestor Community Area. District 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-162) ADOPTED AS RESOLUTION R-300834

Vacating and abandoning the portion of the City-owned sewer line located in Lots 24 through 32 and Lot 47 of Block 440 of Creekside Village Subdivision Map No. 14022;

Authorizing the City Manager, or designee, to execute a Quitclaim Deed, conveying to the current owners of record all of the City's right, title, and interest in that portion of the sewer easement crossing Lots 25 through 32 and Lot 47, APN 630-440-24 through 630-440-32 and APN 630-440-47, and in that portion of the sewer easement crossing Lots 25 through 32, APN 630-440-25 through 630-440-32, of Block 440 of the Creekside Village Subdivision on Map No.

14022, as shown and legally described in Exhibit A to the Quitclaim Deed, for the purpose of vacating and abandoning the easements no longer required by the City due to the installation of the sewer in the adjacent street;

Waiving Council Policy 700-10 regarding the date of the appraisal;

Authorizing the City Auditor and Comptroller to accept $31,200 and to deposit that amount into Sewer Revenue Fund No. 41506.

CITY MANAGER SUPPORTING INFORMATION:

JUSTIFICATION: This action vacates and abandons that portion of the sewer line no longer needed as a result of the re-alignment and completed installation of the sewer line in the adjacent street.

A portion of the City sewer line within the Creekside Village Subdivision located north of Iris Avenue and east of 27th Street was originally planned to be installed within a 15-ft. wide (0.13 ac.) City sewer easement, acquired from the Ostergards (Document No. 16894, recorded 1/26/60) per Resolution No. R-158694 adopted on 1/12/60, running along the north boundary of the Subdivision.

An 8-ft. wide sewer access easement, located within a portion of the above referenced 15-ft. wide sewer easement, was granted to the City on Creekside Village Subdivision Map No. 14022. This action authorizes the vacation and abandonment of that portion of City-owned sewer line located in Lots 24 thru 32 and 47 of Block 440 of Creekside Village Subdivision Map No. 14022. This action also authorizes the City Manager to execute a Quitclaim Deed conveying to the current owners of record, all the City's right, title, and interest in that portion of the sewer easement crossing Lots 25 thru 32 and 47 (APN 630-440-24 thru 32 and 47) and that portion of the sewer access easement crossing Lots 25 thru 32 (APN 630-440-25 thru 32) of Block 440 of Creekside Village Subdivision on Map No. 14022, in consideration of the City being paid fair market value of $31,200 based on an appraisal dated September 29, 2004 prepared for the City by Kent J. Carpenter, MAI. Although the appraisal prepared for the City is more than six months old the City valuation staff believes it still represents the current fair market value of the easement.

FISCAL IMPACT:

$31,200 to be deposited into the Sewer Revenue Fund No. 41506.

Herring/Griffith/TBP

Staff: Lane MacKenzie – (619) 236-6050
Elisa A. Cusato – Deputy City Attorney

FILE LOCATION: DEED F-9934

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-105: Appointment of Wilbur Smith to the Park and Recreation Board.

(See memorandums from Deputy Mayor Atkins dated 8/22/2005 and Councilmember Frye dated 8/19/2005, with resume attached.)

DEPUTY MAYOR ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2006-186) ADOPTED AS RESOLUTION R-300835

Council confirmation of the following appointment by the Deputy Mayor of the City of San Diego, to serve as a member of the Park and Recreation Board, for term ending as indicated:

NAME	**TERM EXPIRES**
Wilbur Smith (Clairemont, District 6) (Replacing Daniel W. Coffey, who resigned)	March 1, 2006

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-106: Beatrice Avina Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-207) ADOPTED AS RESOLUTION R-300836

Honoring, commending, and thanking Beatrice Avina for all of her contributions to improving the quality of life for San Diegans;

Proclaiming September 10, 2005 to be "Beatrice Avina Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-107: Art Cantu Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-208) ADOPTED AS RESOLUTION R-300837

Honoring, commending, and thanking Art Cantu for all of his contributions to improving the quality of life for San Diegans;

Proclaiming September 10, 2005, to be "Art Cantu Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-108: Macario B. Colmenero Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-206) ADOPTED AS RESOLUTION R-300838

Honoring, commending, and thanking Mac for all of his contributions to improving the quality of life for San Diegans;

Proclaiming September 10, 2005, to be "Macario B. Colmenero Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:38 p.m.)
CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* 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-2006-16) ADOPTED AS RESOLUTION R-300839

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: 2:31 p.m. – 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-110: 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-2005-1245) ADOPTED AS RESOLUTION R-300840

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: 2:31 p.m. – 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

ITEM-150: Construction and Demolition (C&D) Debris Diversion Deposit Ordinance.

(See City Manager Report CMR-05-071; **and memorandum from Elmer L. Heap dated 7/28/2005.**)

(Continued from the meetings of July 18, 2005, Item 150, August 1, 2005, Item 150, and September 12, 2005, Item 150, at the request of the City Manager, for further review.)

TODAY'S ACTION IS:

Introduce **either** Option 1 in Subitem A or Option 2 in Subitem B; and adopt the following resolution in Subitem C:

Option 1

Subitem-A: (O-2005-101 Cor. Copy 2) NOTED AND FILED

Introduction of an Ordinance amending Chapter 6, Article 6 of the San Diego Municipal Code by adding Division 6, Sections 66.0601, 66.0602, 66.0603, 66.0604, 66.0605, 66.0606, 66.0607, 66.0608, 66.0609, and 66.0610, all relating to the Diversion of Construction and Demolition Debris from Landfill Disposal.

This ordinance would require applicants for building permits and demolition/removal permits to post a refundable deposit and submit a waste management plan demonstrating how construction and demolition waste generated from the project will be diverted from landfill disposal. After final project inspection and timely submittal of satisfactory evidence that the waste has been properly diverted, the applicant would be eligible for a refund of the deposit in proportion to the diversion rate achieved for the project.

This ordinance shall take effect beginning on January 1, 2006, and initially requires the applicant to achieve a 25% diversion rate in order to be eligible for a full refund of the deposit. The required diversion rate will increase to 50% as of July 1, 2006, and to 75% as of January 1, 2007, unless a certified recycling facility, which accepts mixed construction and demolition wastes, is not operating within the City at the given diversion rates on the rate increase dates specified above. In that case, diversion rate increases will take place after public notice that such a facility is available.

OR

Option 2

Subitem-B: (O-2005-143 Cor. Copy) INTRODUCED AS AMENDED, TO BE ADOPTED MONDAY, OCTOBER 10, 2005

Introduction of an Ordinance amending Chapter 6, Article 6 of the San Diego Municipal Code by adding Division 6, Sections 66.0601, 66.0602, 66.0603, 66.0604, 66.0605, 66.0606, 66.0607, 66.0608, 66.0609, and 66.0610, all relating to the Diversion of Construction and Demolition Debris from Landfill Disposal.

This alternative ordinance sets forth the same requirements as described in Option 1 above with the following exceptions:

The **alternative** ordinance shall take effect and **be in force on the thirtieth day after public notice that a certified recycling facility which accepts mixed construction and demolition waste is operating in the City at a 50% diversion rate.**

The alternative ordinance initially would require the applicant to achieve a 50% diversion rate in order to be eligible for a full refund of the deposit. That diversion rate would remain in effect for six months, after which time the diversion rate would increase to 75%, unless a certified recycling facility, which accepts mixed construction and demolition wastes, is not operating within the City at a 75% diversion rate at that time. In that case, the diversion rate increase will take place after public notice that such a facility is available.

Subitem-C: (R-2005-1288) ADOPTED AS RESOLUTION R-300841, WITH DIRECTION

Approving the modified deposit schedule for the City's Construction and Demolition Debris Diversion Program, attached hereto as Exhibit "A" and on file in the Office of the City Clerk;

Directing the City Manager to draft internal procedures to require the recycling of construction and demolition debris, as set forth in more detail in Manager's Report No. 05-071, on file in the Office of the City Clerk.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 4/13/2005, NR&C voted 4 to 0 to forward this ordinance to the City Council for their consideration with no recommendation from the Natural Resources and Culture Committee, and

to direct the City Manager to bring forward to the Council an alternative ordinance that addresses the various concerns raised by the Committee members. (Councilmembers Young, Maienschein, Frye, and Madaffer voted yea.)

SUPPORTING INFORMATION:

On November 22, 2004, the City Council voted 7-0 to adopt a Construction and Demolition Material Recycling Policy and directed the City Manager to bring forward a mandatory construction and demolition recycling ordinance to the Natural Resources and Culture (NR&C) Committee. The Construction and Demolition (C&D) Debris Diversion Deposit Ordinance (Ordinance) was presented to the NR&C Committee on April 13, 2005. The Committee voted 4-0 to forward the Ordinance to the full City Council with no recommendation along with an alternative ordinance that includes modifications to the initially proposed ordinance based on direction from the Committee.

The Ordinance would provide an incentive to recycle or reuse C&D waste by requiring applicants for building and demolition permits to post a refundable deposit and submit a waste management plan demonstrating how C&D waste from the project will be diverted from landfill disposal. Upon submittal of documentation, proving waste has been diverted, deposits would be returned to the applicants in proportion to the diversion achieved by the applicant.

An applicant could decide to forfeit the deposit in lieu of diverting waste. With certain exceptions (noted in Attachment I to City Manager's Report 05-071), the Ordinance would apply to all applicants for building and demolition permits beginning January 1, 2006. The project diversion rate would increase over time, beginning with a 25% diversion rate applicable to permits issued between January 1, 2006, and June 30, 2006, increasing to a 50% diversion rate on July 1, 2006, and increasing to a 75% diversion rate for permits issued after January 1, 2007. The diversion requirements would not increase to 50% or 75% until the City has given notice that a mixed C&D facility is operating in the City at that diversion rate.

The alternative ordinance differs in that the deposit requirements take effect thirty (30) days after a mixed C&D facility operating in the City at a 50% diversion rate has been certified; would require applicants to achieve a 50% diversion rate on the project in order to qualify for a full refund; and would step up to a 75% diversion requirement seven months after a mixed C&D facility is certified at a 75% diversion rate.

In addition, the NR&C Committee asked staff to reduce costs on residential alterations. Staff responded to this request by increasing the minimum square footage subject to the ordinance and decreasing the maximum deposit for these projects. The NR&C Committee also asked staff to commit to returning refunds to qualified applicants within 30 days rather than 90 days. Both of these changes have been incorporated into the alternative Deposit Schedule.

In relation to internal City C&D recycling requirements, ESD is in on-going discussions with other City departments working together to minimize impacts to the other departments.

FISCAL IMPACT:

If the original Ordinance is adopted, the fiscal impact will be the same as noted in the City Manager's Report 05-071 attached. If the alternative ordinance is adopted, there will be no fiscal impact in FY 2005 or FY 2006 and the fiscal impact for subsequent fiscal years will be the same as noted for those years in the City Manager's Report.

Mendes/Heap/JO

Staff: Kip Sturdevan – (858) 573-1214
Grace C. Lowenberg – Deputy City Attorney

FILE LOCATION: SUBITEM A&B: NONE
SUBITEM C: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 5:04 p.m.)

MOTION BY MADAFFER TO INTRODUCE AS AMENDED THE ORDINANCE IN SUBITEM B, THAT: 1) THE ENFORCEMENT OF THE ORDINANCE WILL NOT BEGIN UNTIL A C&D FACILITY HAS BEEN OPERATIONAL FOR 45 DAYS; 2) AN AUDIT BE CONDUCTED OF THE RECYCLING FUND WITH A REPORT TO THE MAYOR AND CITY COUNCIL; 3) BEGINNING IMMEDIATELY AND WITH AN AGGRESSIVE EFFORT PRIOR TO THE OPENING OF THE C&D FACILITY, THE ENVIRONMENTAL SERVICES DEPARTMENT WILL PRODUCE MARKETING AND PROMOTIONAL MATERIALS FOR CONTRACTORS, HAULERS AND THE GENERAL PUBLIC; 4) THE CITY ATTORNEY AND THE ENVIRONMENTAL SERVICES DEPARTMENT ENDEAVOR TO WORK ON ISSUES RELATED TO TAKING AN INTEREST IN THESE TYPES OF MATTERS. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

MOTION BY MADAFFER TO ADOPT THE RESOLUTION IN SUBITEM C. ACCEPT COUNCIL MEMBER PETERS' RECOMMENDATION THAT: 1) A CRITERION BE DETERMINED FOR A HAULER OBTAINING AN EXEMPTION FROM MANDATORY RECYCLING AND WHETHER THE EXEMPTION IS A REGULATION OR A PART OF THE ORDINANCE; 2) THE PARTICULAR WAYS

IN WHICH ALTERNATE DAILY COVERS ARE DETERMINED BE PROVIDED TO THE CITY COUNCIL AND THE PUBLIC BEFORE THE ORDINANCE GOES INTO EFFECT; AND 3) IF FOR SOME REASON THERE IS A DELAY IN THE OPENING OF THIS FACILITY AND THERE IS A NEED, A SEPARATE TREATMENT OF NEW CONSTRUCTION SHOULD BE ENTERTAINED IF THERE IS CONCERN ABOUT AB 939. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

ITEM-200: Three actions related to Establishment of New Rates and Fees and Adjustments to Existing Rates and Fees for Inclusion in the Rate Book of City Fees and Charges for the Establishment of Volleyball Leagues, Beaches and Bay Areas, Season Reservations Fees; Establishment of Public Convenience or Necessity Fee; and the Mount Hope Low Income Fee Assistance Program.

(See City Manager Report CMR-05-121 and **Memorandum from Ellen Oppenheim, Deputy City Manager dated 9/13/05.**)

(Continued from the meeting of July 25, 2005, Item 200, at the request of Councilmember Frye, for further review by the City Manager, to discuss the Establishment of Volleyball Leagues, Beaches and Bay Areas, Season Reservations Fees; Establishment of Public Convenience or Necessity Fee; and the Mount Hope Low Income Fee Assistance Program.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2006-199 COR.COPY) ADOPTED AS RESOLUTION R-300842

Approving the Volleyball Leagues, Beaches and Bay Areas, Season Reservation fee, specifically $30 per team per season with the Non-Resident Rate twice the regular rate and Seniors/Persons with disabilities receive a 40% discount;

Directing the City Manager to review the fees annually to ensure that all reasonable costs incurred in providing services are being recovered and to approve fee schedules whenever possible in accordance with the City of San Diego Administrative Regulation 95.25;

Finding the establishment or modification of these rates or fees are for the purpose of meeting operating expenses, and not for the funding of capital projects for the expansion of services, and therefore is exempt from the California Environmental Quality Act pursuant to Public Resources Code Section 21080(b)(8) and CEQA Guidelines Section 15273;

Directing the City Clerk to amend the City Ratebook to include the fees.

Subitem-B: (R-2006-198 COR.COPY) ADOPTED AS RESOLUTION R-300843

Adopting the public convenience or necessity fee for the purpose of recovering the cost of the San Diego Police Department's "public convenience or necessity" determinations;

Declaring that the fee for this service shall be two hundred and twenty dollars ($220), and shall be effective thirty days from and after the passage of this resolution;

Directing the City Manager to review the fees annually to ensure that all reasonable costs incurred in providing services are being recovered and to approve fee schedules whenever possible in accordance with the City of San Diego Administrative Regulation 95.25;

Finding that the establishment or modification of these rates or fees are for the purpose of meeting operating expenses, and not for the funding of capital projects for the expansion of services, and therefore is exempt from the California Environmental Quality Act pursuant to Public Resources Code Section 21080(b)(8) and CEQA Guidelines Section 15273;

Directing the City Clerk to amend the City Ratebook to include the fees.

Subitem-C: (R-2006-197) ADOPTED AS RESOLUTION R-300844

Declaring the City Manager administer a low income fee assistance program for Mt. Hope Cemetery which is based on the Federal Government's Lower Living Standard Income Level, San Diego Index, whereby deceased City of San Diego residents qualifying under the limits and with a maximum of $2,000 in value of personal property would receive a 50% reduction in the cost of following services: Lot and Perpetual Care; Opening/Closing of Grave; Grave Liner (bell); and Document Processing. This program shall be available for a maximum of 15% of the estimated burials in a fiscal year;

Approving the revised Mt. Hope Cemetery fee;

Directing the City Manager to review the fees annually to ensure that all reasonable costs incurred in providing services are being recovered and to approve fee schedules whenever possible in accordance with the City of San Diego Administrative Regulation 95.25;

Finding that the establishment or modification of these rates or fees are for the purpose of meeting operating expenses, and not for the funding of capital projects for the expansion of services, and therefore is exempt from the California Environmental Quality Act pursuant to Public Resources Code Section 21080(b)(8) and CEQA Guidelines Section 15273;

Directing the City Clerk to amend the City Ratebook to include the fees.

CITY MANAGER SUPPORTING INFORMATION:

As part of the FY 06 budget process and consistent with the City's policy on budgetary cost recovery principles, the City Manager directed staff to conduct a full evaluation of the costs and revenues associated with providing City services. This effort is in accordance with the California Constitution, as well as the State Government Code which authorize local jurisdictions to impose fees, charges, and rates in order to recover costs associated with providing services and the use of facilities.

On June 7 and June 20, 2005, public hearings were held by the City Council to consider the establishment of new rates and fees and adjustments to existing rates and fees (see Manager's Report No. 05-121). The Mayor and City Council approved a number of new and revised fees, some of which require a resolution to be approved and/or a resolution to transfer the references to the Standardized Rate Book maintained by the City Clerk, pursuant to Administrative Regulation 95.25 or San Diego Municipal Code Section 86.2013.

The initial approval of rates and fees on June 20 included the direction for staff to return to the City Council with any necessary enacting resolutions. Staff returned to City Council on July 25 for these necessary enacting resolutions for the following rates and fees: Collection Referral Fee, Residential Permit Parking, Volleyball League Season Reservation for Beach and Bay Areas, Balboa Park Botanical Building Entrance Fees, American Red Cross Courses and Specialized Swim Instruction, Mt. Hope Cemetery Low Income Fee Assistance Program, and Determination of Public Convenience or Necessity fee.

The City Council took action on the Collection Referral Fee, Residential Permit Parking, Balboa Park Botanical Building Entrance Fees, and American Red Cross Courses and Specialized Swim

Instruction. Only the Collection Referral Fee enacting resolution was approved. The Determination of Public Convenience or Necessity Fee, Volleyball League Season Reservation Fee for Beach and Bay Areas, and the Mt. Hope Cemetery Low Income Fee Assistance Program enacting resolutions were continued to the September 19 meeting.

FISCAL IMPACT:

Approval of all three recommended fee items will result in $111,750 in revenue to the General Fund which has already been included in the FY 2006 Budget.

Herring/Oppenheim/ Jencks

Staff: Patty Jencks – (619) 235-5244
Hilda Ramirez Mendoza – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:05 p.m. – 5:24 p.m.)

MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea (nay on Subitem A), Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

ITEM-201: Six actions related to Approval of Leases for the Convention and Performing Arts Center.

(See City Manager Report CMR-05-153. Center City Community Area. District 2.)

(Continued from the meetings of July 18, 2005, Item 202, July 25, 2005, Item S404, August 8, 2005, Item 202, and September 6, 2005, Item 201, last continued at the request of Lessee/Public, for further review.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-1366) NOTED AND FILED, WITH DIRECTION

Authorizing the City Manager to execute, for and on behalf of the City of San Diego, a lease agreement between the City and Neighborhood Involvement Association, for the use of Golden Hall, meeting and conference rooms, and other specified portions of the San Diego Community Concourse for a period of five years with the option for five one-year extensions for the management, marketing, and operation of the Lease Premises at the Concourse as a public assembly venue for entertainment, sporting events, educational, community, convention performing arts, corporate, and civic activities at the base rental rate of $130,000 per year (with the base rent for the first five years ($650,000) paid in advance) plus percentage rent of five percent of gross income paid on a monthly basis, and on such other terms and conditions as are set forth in the proposed Lease Agreement.

Subitem-B: (R-2005-1367 Cor. Copy) ADOPTED AS RESOLUTION R-300845

Authorizing the City Manager to rename the Municipal Parking Garage Operations Fund (Fund 10322) as the "Concourse and Parking Garages Operating Fund," and to reprogram the Fund for operation of the Concourse, the Evan P. Jones Parkade, and the parking garage for the World Trade Center building;

Authorizing the City Manager to redirect and deposit rent revenues from the CAB Deli and Downtown Johnny Brown's leases, currently deposited into Revenue Account No. 75602, to Fund 10322;

Authorizing the City Manager to establish a reserve for Fund 10322 in an amount up to $550,000 for Fiscal Year 2006, and to determine the appropriate reserve amount for future fiscal years.

Subitem-C: (R-2005-1368) ADOPTED AS RESOLUTION R-300846

Authorizing the City Manager to expend an amount not to exceed $500,000 from Fund 10322 for tenant improvements to Plaza Hall required to relocate the City's General Services Department, Print Shop operations to Plaza Hall, contingent upon the City Auditor and Comptroller certifying the availability of funds;

Declaring the City Manager shall direct repayment of this amount by the General Services Department, Print Shop to Fund 10322 in payments amortized over seven years.

Subitem-D: (R-2005-1369 Cor. Copy) ADOPTED AS RESOLUTION R-300847

Authorizing the City Manager to execute, for and on behalf of the City, a lease agreement between the City and San Diego Civic Opera for use of the Copper Room located within the San Diego Community Concourse for a period of one year with the option for four one-year extensions and upon such other terms and conditions as are substantially set forth in the form of agreement attached to City Manager Report No. 05-153, dated July 13 2005.

Subitem-E: (R-2005-1371 Cor. Copy) ADOPTED AS RESOLUTION R-300848

Authorizing the City Manager to execute, for and on behalf of the City, a lease agreement between the City and Vince and Claudia Paradise doing business as Paradise Cafe III, for the operation of a deli for a term of three years with the option of two one-year extensions at the rental rate of the greater of $870 per month or 7% of gross revenue, and on such other terms and conditions as are substantially set forth in the form of lease agreement attached to City Manager Report No. 05-153, dated July 13, 2005.

Subitem-F: (R-2005-1370 Cor. Copy) ADOPTED AS RESOLUTION R-300849

Authorizing the City Manager to execute, for and on behalf of the City, a concession agreement between the City and Vince and Claudia Paradise doing business as Paradise Cafe II for the coffee cart concession in the outdoor plaza areas at the Civic Center Complex for a term of one year with the option of four one-year extensions at the rental rate of the greater of $1,500 per month or 15 % of gross revenue, and on such other terms and conditions as are substantially set forth in the form of agreement attached to City Manager Report No. 05-153, dated July 13, 2005.

Staff: Chris Hargett – (619) 236-6766
Carrie L. Gleason – Chief Deputy City Attorney

FILE LOCATION: SUBITEM A&B: MEET
SUBITEM C: LEAS-General Services Department, Print Shop Operations
SUBITEM D: LEAS-San Diego Civic Opera
SUBITEM E: LEAS-Vince and Claudia Paradise dba Paradise Café III
SUBITEM F: LEAS-Vince and Claudia Paradise dba Paradise Café II

COUNCIL ACTION: (Time duration: 5:24 p.m. – 5:40 p.m.)

MOTION BY MADAFFER TO ADOPT SUBITEMS B, C, D, E AND F WITH DIRECTION THAT SUBITEM A BE REFERRED TO THE CITY MANAGER TO INFORM THE COUNCIL AS SOON AS POSSIBLE, GIVEN THAT PEOPLE HAVE DATES ON HOLD, HOW THE SPACE AT GOLDEN HALL IS GOING TO CONTINUE TO BE USED AND THE AVAILABILITY OF GOLDEN HALL. DIRECT THAT THE CITY MANAGER CONTINUE HONORING THE BOOKINGS THAT ARE IN PLACE AT GOLDEN HALL, TO CONTINUE TO OPERATE IT, AND THEN REPORT BACK TO THE MAYOR AND COUNCIL AT A FUTURE DATE WITH A PLAN AS TO HOW THE CITY MANAGER WILL BOOK THE FACILITY AND CONTINUE TO MANAGE IT. DIRECT THAT A DETAILED FINANCIAL REPORT BE PROVIDED TO THE COUNCIL TO GIVE ASSURANCE THAT THERE WILL BE A NET INCOME TO THE GENERAL FUND AND NOT A NET LOSS. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

ITEM-202: Summary Statement of Revenues and Expenses.

CITY AUDITOR AND COMPTROLLER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-224) ADOPTED AS RESOLUTION R-300850, WITH DIRECTION

Accepting the City Auditor and Comptroller's monthly statement of Revenues and Expenses prepared pursuant to San Diego City Charter Sections 39 and 89 report.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:40 p.m. – 6:33 p.m.)

MOTION BY MADAFFER TO ADOPT. ACCEPT COUNCIL MEMBER FRYE'S RECOMMENDATION THAT A PUBLIC HEARING ON THE BUDGET BE SCHEDULED FOR THE FALL IN ORDER TO GET A SENSE FROM THE CITY COUNCIL ON BUDGET ISSUES SO THAT THE COUNCIL CAN START PROVIDING SOME DIRECTION. COUNCIL MEMBER FRYE REQUESTED THAT THERE BE DISCUSSION DURING THAT HEARING ON THE FOLLOWING:

1. WHAT THE COUNCIL'S PREFERENCES ARE REGARDING CONTINUING TO PAY-AS-WE-GO ON THE RETIREE HEALTH ISSUE;

2. HOW THE RETIREE ISSUE SHOULD BE ADDRESSED AND THE RESULTING IMPACT;

3. HOW THIS WOULD INCREASE THE CONTRIBUTION TO BE MADE;

4. HOW THIS WOULD IMPACT THE GENERAL FUND;

5. ADDRESS THE ADVANTAGES AND DISADVANTAGES OF DETERMINING THESE RETIREE HEALTH ISSUES IMMEDIATELY;

6. WHAT EXACTLY IS THE INCREASE OF CONTRIBUTION BASED ON WHATEVER THE ACTUARIAL ASSUMPTION IS GOING TO BE.

Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

ITEM-250: **Notice** of Pending Final Map Approval – 4090 Falcon 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 "4090 Falcon Street" (T.M. No. 90733/PTS No. 70562), located northwesterly of Falcon Street and Fort Stockton Drive 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: Kellogg Park Day.

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2006-231) ADOPTED AS RESOLUTION R-300827

Commending Dale Naegle, Louis Beacham, Donald Goertz, Sean O'Neill, and Mary Coakley, for their dedication, commitment, perseverance, and success in providing a model for future Park Comfort Stations;

Proclaiming September 19, 2005, to be "Kellogg Park Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:22 p.m. – 2:29 p.m.)

MOTION BY PETERS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-S401: Appointment of Councilmember Tony Young to the San Diego City Council Government Efficiency and Openness (GE&O) Committee.

(See memorandums from Deputy Mayor Atkins both dated 9/12/2005.)

DEPUTY MAYOR ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2006-239) ADOPTED AS RESOLUTION R-300851

Appointing Councilmember Anthony Young, to serve as a voting member of the Committee on Government Efficiency and Openness (GE&O), for a term ending December 31, 2005;

Temporarily suspending Rule 13 of the Permanent Rules of Council pursuant to Rule 32, to permit the City Council, rather than the Rules Committee, to appoint a member of the GE&O Committee.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:31 p.m. – 2:38 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Deputy Mayor Atkins at 6:37 p.m..

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 6:37 p.m.)