

THE CITY OF SAN DIEGO, CALIFORNIA  
 MINUTES FOR REGULAR COUNCIL MEETING  
 OF  
 MONDAY, NOVEMBER 24, 2003  
 AT 2:00 P.M.  
 IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:07 p.m. Mayor Murphy recessed the meeting at 2:55 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:04 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 4:34 p.m. into Closed Session immediately thereafter in the 12<sup>th</sup> floor conference room to discuss pending and potential litigation and Meet and Confer matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour/Maland (er)

FILE LOCATION:

MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-not present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Father Steven Grancini of Our Lady of the Rosary Church.

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Atkins.

ITEM-30: Mary and Dallas Clark Day.

**MAYOR MURPHY'S AND COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2004-537) ADOPTED AS RESOLUTION R-298618

Saluting the Balboa Park Millennium Society for its dedication to Balboa Park, and congratulating the Balboa Park Millennium Society on its third annual awards luncheon;

Declaring that the City Council is proud to honor Mary and Dallas Clark for their longstanding commitment to Balboa Park and hereby proclaiming November 18, 2003 to be “Mary and Dallas Clark Day” in the City of San Diego.

FILE LOCATION: AGENDA

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

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

ITEM-31: John G. Thomson Day.

(Continued from the meeting of November 3, 2003, Item 33, at the request of Councilmember Zucchet, to allow John Thomson to be present.)

**COUNCILMEMBER ZUCCHET’S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-453 Cor. Copy) ADOPTED AS RESOLUTION R-298619

Recognizing John Thomson’s well-deserved and long overdue promotion to the rank of Battalion Chief, and honoring his 26 years serving the citizens of San Diego as a firefighter;

Proclaiming November 24, 2003 to be “John G. Thomson Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:09 p.m. – 2:19 p.m.)

MOTION BY ZUCCHET TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-32: Approval of Council Minutes.

**TODAY'S ACTION IS:** APPROVED

Approval of Council Minutes for the meetings of:

10/20/2003

11/3/2003

11/4/2003

**FILE LOCATION:** MINUTES

**COUNCIL ACTION:** (Time duration: 2:08 p.m. – 2:08 p.m.)

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

\* ITEM-100: Burns & McDonnell – Design/Build Services for Interim Erosion Control (Renew Contract).

(See memorandum from Scott Tulloch dated 10/7/2003.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-496) ADOPTED AS RESOLUTION R-298620

Authorizing the City Manager to extend for an additional 12 months the existing agreement for as-needed design-build services with Burns and McDonnell Engineering, Inc., for Interim Erosion and Sediment Control, on file in the office of the City Clerk as Document No. RR-297266 dated November 12, 2002, and to increase the amount of the Agreement by \$500,000 for a total not-to-exceed amount of \$1,000,000 pursuant to the terms and conditions of Change Order No. 1;

Authorizing the expenditure of an amount not to exceed \$500,000 from Fund No. 41506, solely and exclusively for the purpose of funding the above referenced change order with Burns and McDonnell Engineering, Inc. in the following manner:

- Fund No. 41506, Department 773, Org. No. 851, Job Order 8513, in the amount of \$250,000; and
- Fund No. 41506, Department 773, Org. No. 241, Job Order 2909, in the amount of \$250,000;

Authorizing the City Auditor and Controller to transfer excess budgeted funds, if any, to the appropriate reserves on advice of the administering department.

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

On 10/15/2003, NR&C voted 5 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

**SUPPORTING INFORMATION:**

On November 12, 2002, the Council approved Resolution R-297266 approving the agreement with Burns & McDonnell Engineering, Inc. for a Design/Build Contract. The duration of the contract was for 12 months. This request is to extend that Agreement with Burns & McDonnell Engineering, Inc., for an additional 12 months and to increase the Agreement amount by \$500,000. The revised Agreement amount will be not to exceed, \$1,000,000. The hourly and material rates in the original contract will remain the same for the new contract.

Erosion and sediment control is a significant part of the ongoing cleaning and maintenance activities for sewer pipelines in canyon and other non-right-of-way areas. Regulatory agencies require effective erosion and sediment control programs for any work activity on non-right-of-way sewer pipelines and manholes including cleaning, emergency repairs and assessments. Additionally, erosion control measures reduce the risk of pipeline failures.

The work under this contract will consist of design and implementation of effective interim erosion control measures to minimize soil erosion and sedimentation during and immediately after maintenance or repairs of sewer facilities. The design/build contractor is responsible for preparing construction drawings and furnishing all equipment, material, and labor necessary to accomplish the work. This work will be issued on a task order basis.

**FISCAL IMPACT:**

The total cost for this action is \$500,000 and will be funded from Sewer Fund 41506.

Mendes/Tulloch/EA

Aud. Cert. 2400480.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:19 p.m. – 2:21 p.m.)

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

\* ITEM-101: Financial Advisory Services Contract for Reinvestment of Escrowed Funds.

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-434) ADOPTED AS RESOLUTION R-298621

Authorizing the City Treasurer to execute the First Amendment to the Financial Advisory Services Agreement with Public Financial Management, Inc. to provide financial advisory services for the reinvestment of the escrowed bonds, under the terms and conditions in the Amendment;

Authorizing the expenditures of an amount not to exceed \$400,000 for fees and expenses that will be paid from and are contingent upon excess escrow proceeds being generated through reinvestment activity, for the purpose of providing professional services for the above program.

**CITY MANAGER SUPPORTING INFORMATION:**

On March 25, 2003, the City entered into an agreement with Public Financial Management, Inc. (PFM) to start a pilot program tailored to reinvest bond proceeds that are escrowed with a trustee bank. The pilot program used the refunding proceeds of the Series 2002 Water Revenue Bonds which were dedicated to the retirement of the 1993 Water Revenue Bonds and over the past five months the program has generated more than \$2.3 million. The expenses which are paid from the additional earnings generated by the program were capped in the original agreement at \$200,000.



The City desires to continue the program and to amend the agreement to increase total expenditures by an additional \$200,000. The program incorporates the use of a combination of State and Local Government Securities (SLGS) and other U. S. Treasury securities as reinvestment vehicles. PFM successfully implemented similar strategies for a number of state and local governments.

**FISCAL IMPACT:**

The amended agreement between the City and PFM will increase the cap on total expenditures by \$200,000 to a not-to-exceed amount of \$400,000 for fees and expenses. All compensation will be paid out of excess escrowed proceeds and will be contingent upon such excess proceeds being generated by the program.

Frazer/Vattimo/RD

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:19 p.m. – 2:21 p.m.)

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

\* ITEM-102: Grant to Support Mid-City Neighborhood Prosecution Initiatives/Mid-City Community Court.

(City Heights East, City Heights West, College, Darnall, El Cerrito, Gateway, Kensington, Normal Heights, Oak Park, Rolando, Talmadge, and Webster Community Areas. Districts-3, 4, and 7.)

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-417) ADOPTED AS RESOLUTION R-298622

Authorizing the City Attorney to apply for, accept, and expend a \$50,000 grant from San Diego Revitalization Corporation to fund enhanced services at the Mid-City Community Court, under the terms and conditions set forth in the letter dated March 4, 2003 to the City Attorney's Office from James F. Cahill of the San Diego Revitalization Corporation;

Declaring that the \$50,000 grant award shall be placed in the Mid-City Neighborhood Prosecution Initiatives Fund, appropriated, and expended for the purpose of funding enhanced services at the Mid-City Community Court, including expansion of the community work service component of the Court;

Declaring that the City of San Diego hereby agrees to indemnify, defend, and hold harmless the San Diego Revitalization Corporation and its agents and employees from any liability arising out of the Corporation's funding of the grant project.

**SUPPORTING INFORMATION:**

The Mid-City Community Court was implemented in February 2003 to enhance quality of life and improve public access to the justice system. With community involvement, the Court is holding offenders who commit misdemeanor offenses in the Mid-City area of San Diego accountable through swift and meaningful Intervention. The Court serves the communities of City Heights East, City Heights West, College, Darnall, El Cerrito, Gateway, Kensington, Normal Heights, Oak Park, Rolando, Talmadge, and Webster. Eligible offenders, who commit quality-of-life crimes, including prostitution, marijuana possession, disturbing the peace, and graffiti vandalism are sanctioned by a panel that includes community members.

Offenders are ordered to perform community work service, attend rehabilitative and educational programs, and pay administrative fees. The City Attorney's Office is the lead agency in the Mid-City Community Court.

On February 21, 2003, the City Council established the Mid-City Neighborhood Prosecution Initiatives Fund for the purpose of receiving administrative fees paid by Mid-City Community Court offenders and grant funds. This grant award of \$50,000 from the San Diego Revitalization Corporation will be used to support the work of the Mid-City Community Court and enhance the community work service component of the Court.

This grant award is contingent upon City Council approval. The proposed resolution authorizes the City Attorney to apply for, accept, and expend the grant award for the purpose of funding the Mid-City Community court. The resolution also authorizes the placement of the grant award into the Mid-City Neighborhood Prosecution Initiatives Fund, and indemnifies the San Diego

Revitalization Corporation from any civil suits that may arise from the City Attorney's use of the funds.

Gwinn

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:19 p.m. – 2:21 p.m.)

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

\* ITEM-103: Local Law Enforcement Block Grant – FY 2003/2004

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-554) ADOPTED AS RESOLUTION R-298623

Authorizing the Chief of Police to apply for, accept and expend funds for the Fiscal Year 2003/2004 Local Law Enforcement Block Grant (LLEBG);

Authorizing the Chief of Police to execute all aspects of program operation, including any amendments, extensions, or renewals, for a period of up to five years, provided funding is made available by the U.S. Department of Justice, and to certify that the City will comply with all applicable statutory or regulatory requirements related to said program;

Authorizing the City Auditor and the City Treasurer to transfer \$268,300 from these grant funds to the County of San Diego, to be used for the purpose of Drug Courts and/or other authorized purposes;

Authorizing the Chief of Police to commit the required matching funds, not to exceed \$149,055, from the San Diego Police Department Fiscal Year 2003/2004 budget, in compliance with the requirements of the Local Law Enforcement Block Grant program;

Declaring that any resources received hereunder shall not be used to supplant

expenditures controlled by this body; and that personnel positions, if any, funded under this grant are not subject to local hiring freezes.

**CITY MANAGER SUPPORTING INFORMATION:**

The Local Law Enforcement Block Grant (LLEBG) is appropriated from funding authorized by the Crime Control and Law Enforcement Act of 1994, and is administered by the U.S. Department of Justice, Bureau of Justice Assistance. Grant amounts are determined based on jurisdiction population and crime index.

There is no application other than the one page form submitted electronically. The grant does not require a specific program, timeline, evaluation or budget.

SDPD has agreed to a County of San Diego request to transfer \$268,300 of these grant funds to the County to assist in funding the Drug Court program. The balance of funds will be used for police automation, vehicle, safety, forensic, training, and miscellaneous equipment, maintenance and resources as needs are identified. Expenditures will contribute to the safety and efficiency of law enforcement and crime prevention services throughout San Diego.

**FISCAL IMPACT:**

Funded by the Crime Act of 1994, and administered by the U.S. Department of Justice, Bureau of Justice Assistance, the grant provides federal funds of \$1,341,499. It requires a cash match of \$149,055. Funds for this match are included in the Police Department's FY 2003/2004 budget. The City will transfer \$268,300 of this grant to the County to assist in funding Drug Courts. Remaining funds will be spent for a variety of law enforcement purposes as needs are identified. There are no requirements for ongoing grant-related programs or expenses after the grant is terminated or expended.

Uberuaga/Lansdowne/DJW

Aud. Cert. 2400515.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:19 p.m. – 2:21 p.m.)

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

\* ITEM-104: Two actions related to City Treasurer's Investment Policy and Delegation of Authority.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2004-498) ADOPTED AS RESOLUTION R-298624

Accepting the City Treasurer's Investment Policy for the Pooled Investment Fund dated October 2003;

Delegating the authority to invest the City's operating and capital improvement funds to the City Treasurer for a period of one year.

Subitem-B: (R-2004-499) ADOPTED AS RESOLUTION R-298625

Authorizing the deposit and withdrawal of City monies in the Local Agency Investments Fund in the State Treasury in accordance with the provision of Section 16429.1 of the California Government Code for the purpose of investment by the State Treasurer;

Authorizing the following City Officers or their successors in office to order the deposit or withdrawal of monies in the Local Agency Investment Fund:

Mary Vattimo, City Treasurer  
Raymond Day, Chief Investment Officer.

**CITY MANAGER SUPPORTING INFORMATION:**

California Government Code (CGC) Section 53646 paragraph 2 provides that the City Treasurer shall annually render to the City Council a statement of investment policy which the Council will consider at a public meeting. The policy reflects the California Government Code Sections which govern the investment of public funds and any guidelines that are specific to the City, e.g. conflict of interest, credit rating requirements.

No changes have been made for the 2003 Investment Policy from the 2002 Investment Policy. The policy has been reviewed by the City Manager's Investment Advisory Committee (consisting of the City Auditor and Comptroller, Deputy City Manager and two private sector money management professionals) prior to being submitted to Mayor and Council. The policy will remain in effect until amended in 2004.

California Government Code (CGC) has vested authority with the City Council to invest or to reinvest funds of the City or to sell or exchange securities purchased. Under CGC Section 53607, the City Council may delegate this authority to the City Treasurer for a period of one year. Prior to the enactment of this superceding legislation in 2002, the City Treasurer had the authority to invest the funds of the City under CGC Section 53635 and City Charter Section 45. The City Council now annually delegates this authority to the City Treasurer. City Council's Resolution 297516 adopted on January 7, 2003 last delegated this authority.

California Government Code (CGC) Section 16429.1 provides for the creation of the State of California Treasurer's Local Agency Investment Fund (LAIF). City Council's Resolution 217971 adopted on March 23, 1977 authorized the City Treasurer and the Assistant City Treasurer to deposit or withdraw funds from LAIF. This information now needs to be updated to reflect organizational changes in the City since then by authorizing the City Treasurer and the Chief Investment Officer to deposit or withdraw funds from LAIF in accordance with CGC 16429.1.

Frazier/Vattimo/SM

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:19 p.m. – 2:21 p.m.)

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

\* ITEM-105: San Diego Foundation for Change 20th Anniversary Celebration Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2004-534) ADOPTED AS RESOLUTION R-298626

Commending San Diego Foundation for Change board of directors, volunteers, and staff for their 20 years of tireless leadership to support those groups and individuals who are working in the most underserved and disenfranchised communities in San Diego and Tijuana;

Proclaiming November 14, 2003 to be "San Diego Foundation for Change 20th

Anniversary Celebration Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:19 p.m. – 2:21 p.m.)

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

ITEM-106: This item has been removed from today's Docket and it will be docketed on the Docket for December 1, 2003.

ITEM-200: Amending the Time Warner Cable Franchise Agreement.

(See City Manager Report CMR-03-238.)

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2004-17) INTRODUCED, TO BE ADOPTED ON MONDAY,  
DECEMBER 8, 2003

Introduction of an Ordinance amending the Franchise Granted in Ordinance O-15213 to American Television and Communications Corporation and subsequently transferred to Time Warner Cable.

**NOTE:** 6 votes required pursuant to Section 103 of the City Charter.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:52 p.m. – 2:54 p.m.)

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

ITEM-201: Freeway Deficiency Plan for Central Interstate 5.

(See memorandum from Theresa C. McAteer dated 10/13/2003 and the Central Interstate 5 Corridor Study. Barrio Logan, Centre City, Midway-Pacific Highway, Old Town, Southeastern San Diego, Uptown, and Greater Golden Hill Community Areas. Districts-2, 3, and 8.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-462)            ADOPTED AS RESOLUTION R-298628

Adopting the Central Interstate I-5 Freeway Deficiency Plan;

Directing the City Manager to forward the Central I-5 Freeway Deficiency Plan to SANDAG (acting as the regional Congestion Management Agency) for acceptance.

**CITY MANAGER SUPPORTING INFORMATION:**

The proposed action is the adoption of the Freeway Deficiency Plan for Central Interstate 5 (Freeway Deficiency Plan). A deficiency plan is required by state law when a freeway segment on the regional Congestion Management Program (CMP) network fails to meet the applicable Level of Service standard. A deficiency plan must include an identification of the cause of the deficiency, a list of improvements, and an action plan for implementing improvements. Upon adoption, the local jurisdiction must submit the deficiency plan to the Congestion Management Agency (SANDAG) for acceptance.

The Freeway Deficiency Plan is a requirement of the Final Subsequent Environmental Impact Report (FSEIR) for the Ballpark Development project in East Village. The FSEIR identified significant impacts to the freeway system from the build-out of downtown. As such, the City of San Diego, CALTRANS and SANDAG have cooperatively prepared a Freeway Deficiency Plan to identify improvements on the freeways serving Centre City. The deficiency plan focuses on the daily non-event conditions. Traffic generated by special events is addressed by a formal Event Transportation Management Plan that is being prepared by the City of San Diego's Transportation Engineering Division. This plan will be docketed for Council consideration in early 2004.

The Freeway Deficiency Plan draws from several sources: (1) improvements identified in the 2030 Regional Transportation Plan, (2) projects identified in a Corridor Study for Interstate 5 but



not included in the RTP: and (3) other long-term projects. Because SANDAG's technical studies have identified them as measures that would relieve congestion on the freeway, leaving any out could result in an incomplete and legally deficiency plan under state law. Identifying a project in the deficiency plan does not commit the City to implement it in the future. A complete environmental review, identification of funding and full public review is required for all projects identified by the proposed deficiency plan.

**FISCAL IMPACT:**

None with this action.

Herring/Goldberg/KG

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:04 p.m. – 3:30 p.m.)

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

ITEM-202: Coast Boulevard Walkway Improvements – Transfer of Funds.

(La Jolla Community Area. District-1.)

(Continued from the meeting of November 3, 2003, Item 106, at the request of Councilmember Peters, for further review.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-422) CONTINUED TO TUESDAY, DECEMBER 9, 2003

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$110,000 from CIP-52-348.0, Coastal Infrastructure Improvement Annual Allocation, Fund No. 102232, TOT Coastal Infrastructure, to CIP-29-486.0, Coast Boulevard Walkway Improvements;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed

\$110,000 from CIP-29-486.0, Coast Boulevard Walkway Improvements, for the change orders required to complete this project and related costs, provided that the City Auditor and Comptroller first furnishes a certificate certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

**CITY MANAGER SUPPORTING INFORMATION:**

This project provides for improvements to Coast Boulevard, between the lifeguard station and People's Wall. The improvements include realigning the street, provide angle parking on the east side of the street, and the construction of a concrete walkway with architectural features such as pebble faced walls, exposed aggregate, colored and contoured concrete, and landscape.

This request is to cover the cost associated with change orders required to complete construction and related costs.

A pedestrian ramp and a number of irrigation components had to be added to this project since a project just north of this project, which was originally going to provide these irrigation components, was delayed. During the street demolition, the contractor encountered concrete as thick as 12 inches which required demolition and disposal beyond the original estimate. This also required additional fill. Unexpected conflicts with a drain structure required extensive drainage work and structure reconfiguration. These were some of the changes, in addition to other incidental changes, that became necessary to complete the construction of the project.

**FISCAL IMPACT:**

The estimated cost to pay the change orders and related expenses is \$110,000. Funds for this purpose are available in CIP-52-348.0, Coastal Infrastructure Improvement Annual Allocation, Fund No. 102232, TOT Coastal Infrastructure.

Loveland/Oppenheim/AP

Aud. Cert. 2400346.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:54 p.m. – 2:54 p.m.)

MOTION BY ATKINS TO CONTINUE TO TUESDAY, DECEMBER 9, 2003, AT THE REQUEST OF THE CITY MANAGER FOR FURTHER REVIEW. Second by

Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-203: HEARING HELD, REFERRED TO CLOSED SESSION

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

Property: Qualcomm Stadium.

Agency Negotiator: Assistant City Attorney Leslie J. Girard, Deputy City Manager Bruce Herring, Paul Jacobs, Esq., Daniel S. Barrett and Robert Kheel.

Negotiating Parties: City of San Diego and the San Diego Chargers.

Under Negotiation: Real Property Interests at the Qualcomm Stadium site pursuant to the recommendations of the Citizens Task Force on Chargers Issues, and pursuant to the terms of Paragraph 31 of the 1995 Agreement for the Partial Use and Occupancy of Qualcomm Stadium.

Prior to City Council discussion in Closed Session and in compliance with the Brown Act (California Government Code Section 54956.8), this item is listed on the docket **only** for public testimony.

**There is no Council discussion of this item. The City Council's actions are:**

- 1) Open the Public Hearing and accept testimony from any members of the public wishing to address the City Council on this subject; 2) Conclude and close the public hearing; and 3) Refer the matter to Closed Session.

**NOTE:** Members of the public wishing to address the City Council on this item should speak "in favor" or "in opposition" to the subject.

**The public hearing was held and Mayor Murphy referred the item to Closed Session.**

FILE LOCATION: MEET (61)

COUNCIL ACTION: (Time duration: 2:54 p.m. – 2:55 p.m.)

ITEM-250: Notice of Completion and Acceptance of Subdivision Improvement Agreement.

Notice is hereby given that the City Manager of the City of San Diego intends to file a "Notice of Completion and Acceptance of Subdivision Improvement Agreement" indicating that the improvements included in the Subdivision Improvement Agreement have been satisfactorily completed for the following subdivisions:

SUBDIVISION

COMMUNITY AREA

Cortez Hill Condominiums

Centre City

The certification shall be recorded 15 days after the date this notice appears on the Council Docket or shortly thereafter. If any person wishes to object to the filing of this notice, such person should communicate the objection on or before that date to the Director of Development Services or to the Subdivision Engineer, City Operations Building, 1222 First Avenue (MS 507), San Diego, CA 92101.

ITEM-251: ARGUMENTS SUPPORTING OR OPPOSING PROPOSITIONS

For propositions approved by the City Council for submittal to the qualified voters of the City of San Diego at a Special Municipal Election to be held on Tuesday, March 2, 2004, the City Clerk has fixed 5:00 p.m. on Thursday, December 18, 2003, as a reasonable date prior to such election after which no arguments for or against City propositions may be submitted to the Clerk.

Any argument for or against any City proposition shall not exceed 300 words in length and may be filed by the Council, or any member or members of the Council authorized by the Council, or the bona fide sponsors or proponents of the measure, or any bona fide association of citizens or an individual voter, or any combination of voters and associations.

All arguments must be accompanied by a statement signed by each author that the argument is true and correct to the best of his/her knowledge and belief. (Forms for this Statement are available in the Office of the City Clerk.)

An argument shall not be accepted unless accompanied by the name or names of the person or persons submitting it, or if submitted on behalf of an organization, the name of the organization and the name of at least one of its principal officers.

No more than five signatures shall appear with any argument submitted. In case any argument is signed by more than five persons, the signatures of the first five shall be printed.

Arguments may be changed or withdrawn by their proponents until and including the date fixed by the City Clerk.

Arguments shall be submitted to the City Clerk at the Office of the City Clerk, 2nd Floor, City Administration Building, 202 "C" Street, San Diego, California, 92101.

**ITEM-252: SUBMISSION OF BALLOT PROPOSALS**

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred back to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the March 2, 2004 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	9/26/2003	158	LAST DAY (10:00 a.m.) for public, departments and agencies to submit ballot proposals to City Clerk for review by Rules Committee.
Wednesday	10/1/2003	153	Rules Committee review.
Monday	10/27/2003	127	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee.
Monday	11/3/2003	120	Council adopts propositions for ballot; directs
Monday	through 11/17/2003	to 106	City Attorney to prepare ordinances.

Monday	11/24/2003	99	Council adopts ordinances prepared by City Attorney.
Friday	12/5/2003	88	Last day for City Clerk to file with Registrar of Voters all elections material.
Thursday	12/18/2003	75	Last day to file ballot arguments with City Clerk.

If you have questions, please contact the Office of the City Clerk, (619) 533-4025.

ITEM-S400: Cost Reimbursement District Agreement Between Torrey Pines Homebuilding Co., LLC and the City of San Diego (Arroyo Sorrento Road Cost Reimbursement District No. 4097).

(Continued from the meetings of October 21, 2003, Item 331 and November 17, 2003, Item 203; last continued at Councilmember Peters' request, for further review.)

Matter of considering the establishment of a reimbursement district for the financing of certain public improvements within the City, otherwise known as the Arroyo Sorrento Road Cost Reimbursement District No. 4097.

All properties within the described boundaries of the Cost Reimbursement District may be assessed with a lien to pay a fair share portion of the cost of providing such facilities. If, within a 20 year period from the date of forming this district, either a final map is filed, or a building permit is issued for improvements which will ultimately utilize the cost reimbursement district improvements, or if a building permit is issued for improvements valued in excess of \$20,000, the lien would become due and payable. Permits for improvements that are for replacement of existing single-family residences, modifications or additions to existing single family residential structures (such as gazebos, swimming pools, tennis courts, or room additions) shall not be subject to payment of lien. The boundaries of the district are more particularly described by Plat No. 4097, which is on file in the Office of the City Clerk.

All persons desiring to testify with respect to: the necessity of said public improvements, the cost of said public improvements, the benefitted area or amount of the costs eligible to be recovered, may appear and be heard at this hearing.

(Cost Reimbursement District No. 4097 Agreement. Carmel Valley Community Plan Area. District-1.)

**NOTE:** Hearing open. No testimony taken on 11/17/2003.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-224)                      RETURNED TO THE CITY MANAGER,  
APPLICATION WITHDRAWN BY APPLICANT

Adoption of a Resolution of Lien of the Council of the City of San Diego approving the Cost Reimbursement Agreement with Torrey Pines Home Building Co., LLC, Plat Number 4097, the Engineer's Report, and the expenditure of \$15,000 for City administrative costs, all relating to the establishment of the Arroyo Sorrento Road Cost Reimbursement District.

**SUPPORTING INFORMATION:**

**Background**

In June of 2000, Torrey Pines Homebuilding Co., LLC, submitted an application requesting that the City initiate proceedings for the formation of the Arroyo Sorrento Road Cost Reimbursement District (CRD). The public improvements for which the developer is seeking reimbursement include surface improvements and underground utility construction for Arroyo Sorrento Road, the main access road serving Neighborhoods 8A and 8B of the Carmel Valley Community Plan. Vesting Tentative Map No. 96-7573 required Torrey Pines Homebuilding Co., LLC, to construct Arroyo Sorrento Road as part of their Torrey Pines Estates Subdivision in Carmel Valley Neighborhood 8A.

On September 18, 2000, the City Council authorized the execution of a District Formation Cost Agreement with Torrey Pines Homebuilding Co., LLC. Also on September 18, 2000, the City entered into an agreement with William A. Steen & Associates to perform engineering consultant services for the Cost Reimbursement District. Torrey Pines Homebuilding Co., LLC, is seeking partial reimbursement from owners of other properties in Neighborhood 8B which receive benefit from the road improvements. One of the consultant engineer's responsibilities was to determine the improvement costs eligible for reimbursement, and the method of spreading those costs to the benefitting property owners. The total estimated cost of the improvements is \$1,375,571.02. The consultant engineer has determined that Torrey Pines Homebuilding Co., LLC, is responsible for \$801,701.75, or approximately 58.3%. The remaining \$573,869.27, or 41.7%, will be spread as liens amongst the benefitting properties, payable upon development of their property.

**FISCAL IMPACT:**

None. The developer has advanced an additional \$15,000 for City administrative expenses. A total of \$55,500 has been previously authorized for the payment of Engineering Consultant services (\$35,500) and City administrative services (\$20,000).

Aud. Cert. 2400273.

Ewell/Goldberg/AMA

**NOTE:** This activity is a financing measure and is exempt from the California Environmental Quality Act pursuant to State CEQA guidelines section 15061(b)(3).

FILE LOCATION: STRT-CR-28 (50)

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:25 p.m.)

ITEM-S401: Ballot Proposal for the March 2, 2004, Election Amending the City Charter, Section 94.4, Relating to “Construction Manager at Risk.”

(See City Manager Report CMR-03-209, and memorandum from Councilmember Madaffer dated 10/21/2003.)

(Continued from the meeting of November 3, 2003, Item S400, at the request of Councilmember Madaffer, for further review and preparation of the ordinance; and continued from the meeting of November 17, 2003, Item 150, at the request of the City Manager for further discussion with the building industry.)

**TODAY’S ACTION IS:**

Introduce and adopt the ordinance in Subitem A and consider discretionary actions in Subitems B, C, D, and E:

Subitem-A: (O-2004-57)      INTRODUCED AND ADOPTED AS  
ORDINANCE O-19239 (New Series)



Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego at the Special Municipal Election consolidated with the California State Primary Election to be held on March 2, 2004, one proposition relating to amending the San Diego City Charter to provide for the construction of public works pursuant to the "Construction Manager at Risk" delivery method.

Subitem-B: (R-2004-633) ADOPTED AS RESOLUTION R-298629

Directing the City Attorney to prepare a ballot title and summary.

Subitem-C: (R-2004-639) ADOPTED AS RESOLUTION R-298630

Directing the City Attorney to prepare an impartial analysis.

Subitem-D: (R-2004-640) ADOPTED AS RESOLUTION R-298631

Directing the City Manager to prepare a fiscal analysis.

Subitem-E: (R-2004-641) ADOPTED AS RESOLUTION R-298632

Assigning authorship of the ballot argument.

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

On 10/22/2003, RULES voted 5 to 0 to approve the "Construction Manager at Risk" ballot proposal and direct the City Attorney to prepare the Charter amendment language with the goal of docketing the item at the full City Council November 3, 2003. (Councilmembers Peters, Maienschein, Madaffer, Inzunza, and Mayor Murphy voted yea.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:30 p.m. – 4:31 p.m.)

MOTION BY MADAFFER TO INTRODUCE AND ADOPT THE ORDINANCE IN SUBITEM A WITH THE CAVEAT THAT THERE IS NO IMPLEMENTATION LANGUAGE IN THE ORDINANCE AND THAT WOULD REQUIRE A DELIBERATE PROCESS PRIOR TO THE ISSUE BECOMING EFFECTIVE; ADOPT THE RESOLUTIONS IN SUBITEMS B, C, AND D. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-nay, Atkins-nay, Lewis-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

MOTION BY MADAFFER TO ADOPT SUBITEM E AUTHORIZING COUNCIL MEMBER MADAFFER TO AUTHOR THE BALLOT ARGUMENT OR DESIGNATE THE AUTHOR. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-S402: Reappointments to the Community Forest Advisory Board.

(See memorandum from Mayor Murphy dated 11/20/2003, with resumes attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-605)            ADOPTED AS RESOLUTION R-298633

Council confirmation of the following reappointments by the Mayor to serve as members of the Community Forest Advisory Board for terms ending as indicated, and representing categories as indicated:

<u>Reappointments</u>	<u>Term Ending</u>	<u>Category</u>
Jolaine Harris	December 31, 2006	District 4
Walter Odening	December 31, 2006	District 7
Leslie Ann Ryan	December 31, 2006	Artist
Daniel A. Simpson	December 31, 2006	Certified Arborist

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:19 p.m. – 2:21 p.m.)

CONSENT MOTION BY MADAFERR TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-S403: Excused Absence for the Mayor for the Tuesday November 25, 2003 City Council Meeting.

(See memorandum from Mayor Dick Murphy dated 11/21/2003.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2004-618) ADOPTED AS RESOLUTION R-298634

Excusing Mayor Dick Murphy from attending the regularly scheduled City Council Meeting on November 25, 2003, due to his meeting in Sacramento with Governor Arnold Schwarzenegger.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:52 p.m.)

MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

