

RESOLUTION NUMBER R-306832

DATE OF FINAL PASSAGE MAY 24, 2011

RESOLUTION DENYING THE APPEAL OF THE
ENVIRONMENTAL DETERMINATION FOR AMENDMENTS
TO CHAPTERS 2 AND 6 OF THE SAN DIEGO MUNICIPAL
CODE RELATING TO SPECIAL EVENTS AND PARK USE
PERMITS.

WHEREAS, amendments were proposed to the San Diego Municipal Code, Chapters 2 and 6 pertaining to the issuance of Park Use and Special Event Permits to bring the San Diego Municipal Code into conformance with the long-standing City staff practice in the issuance of these permits (Project); and

WHEREAS, on April 25, 2011, the City of San Diego, as Lead Agency, through the City Manager's authority in San Diego Municipal Code section 128.0103, issued a Notice of Exemption which documented the determination that proposed amendments to the San Diego Municipal Code were exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15061(b)(3); and

WHEREAS, in accordance with Public Resources Code Section 21151 and San Diego Municipal Code section 112.0520, on May 9, 2011, the Coastal Environmental Rights Foundation and Freepb.org filed an appeal of the CEQA determination to the Council of the City of San Diego (Appeal); and

WHEREAS, on May 23, 2011, Free.pb withdrew its appeal; and

WHEREAS, the appeal was set for a public hearing to be conducted by the City Council of the City of San Diego; and

WHEREAS, under Charter Section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals affected by the decision, and the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on May 24, 2011, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, upon consideration of the record before it, that the Council determines that the Project has been reviewed in compliance with CEQA and the State guidelines thereto, that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the City Council of the City of San Diego.

BE IT FURTHER RESOLVED, that upon consideration of the record before it, the Council independently makes the following findings with respect to the Project:

1. The amendments to SDMC sections do not have the potential to cause a significant impact on the environment.
2. The amendments to Chapters 2 and 6 of the SDMC merely conform to current City practice of not requiring a Special Event permit for a display of fireworks when the event does not include the provision of food and alcohol.
3. Under the City's existing regulations pertaining to Park Use Permits, the Park and Recreation Department staff does not consider whether an event will add congestion or interfere with the normal flow of traffic, but instead makes an objective determination of whether space is available at the requested location and time.

4. Therefore, because these code amendments are merely codifying that which is the City's existing practice with respect to the issuance of special event permits and park use permits, as they relate to the display of fireworks, this Council finds there is no possibility that these code amendments will have a significant effect on the environment.

BE IT FURTHER RESOLVED, that the decision of the City Manager is sustained, and the appeal of Coastal Environmental Rights Foundation is denied.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Shannon M. Thomas
Shannon M. Thomas
Deputy City Attorney

SMT:js
6/1/2011
Or.Dept: P&R

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAR 24 2011.

ELIZABETH S. MADAND
City Clerk

By [Signature]
Deputy City Clerk