

RESOLUTION NUMBER R- 308139
DATE OF FINAL PASSAGE JUN 11 2013

ITEM # 331
4/30/13

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO WAIVING COUNCIL POLICY 700-06 REGARDING ENCROACHMENTS ON CITY PROPERTY AND ACCEPTING A NINE FOOT WIDE BUILDING RESTRICTED EASEMENT ALONG THE NORTH AND SOUTH PROPERTY LINES OF CENTRUM PARK.

WHEREAS, in 1997 the City Council first approved the New Century Center Master Plan, aka Spectrum Center, a contemplated redevelopment of the 244-acre former General Dynamics industrial site with mixed-use commercial/industrial development; and

WHEREAS, consistent with the City's General Plan and the City villages concept, the Spectrum Master Plan was amended in 2000 and 2002 to be included in multi-family residential uses in the western portions of the site; and

WHEREAS, the 2002 amendments also included park requirements associated with the additional residential development authorized with the amendment; and

WHEREAS, in partial satisfaction of the park requirements for Phase 1 residential development, Wood Partners completed construction of the 2.0-acre Centrum Park in 2012; and

WHEREAS, under separate permits, Sunroad Centrum Partners is now constructing residential Phases 2 and 3, contiguous with the Centrum Park and to the immediate north and south of the park; and

WHEREAS, consistent with the development standards of the Spectrum Master Plan, which established a minimum building setback of zero feet for the rear yards, the Planned

Development Permits for Phases 2 and 3 were approved by the City Planning Commission with rear yard building setbacks of 6 feet; and

WHEREAS, during the building permit plan check review, it was noted that the California Building Code would require a 15 foot building setback from the park if the park were not designated a "Public Way;" and

WHEREAS, an alternative to having the Centrum Park designated a public way would be to record a nine-foot -wide building restricted easement along the north and south property lines of the park, adjacent to Sunroad's parcel; and

WHEREAS, City staff has identified that the request to record a building restricted easement over any portion of the park is inconsistent with Council Policy 700-06 and as such they are obliged to deny Sunroad's request absent waiver of the Council Policy; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Council hereby waives Council Policy 700-06 because the waiver in this instance meets the guidelines established in Council Policy 700-06, because recordation of a nine-foot -wide building restricted easement along the north and south property lines of the park: (1) would not violate any deed restrictions related to the park, map requirements or other land use regulations; (2) would not be detrimental to the City's property interests; (3) would not preclude appropriate uses of the park; (4) would be consistent with the General Plan; (5) would otherwise be prudent and reasonable; and (6) would not change or interfere with the use and purpose of the park.

BE IT FURTHER RESOLVED, by the Council of the City of San Diego, that it directs the Park and Recreation Department to accept a nine-foot-wide building restricted easement along the north and south property lines of Centrum Park, adjacent to Sunroad's parcels, consistent with the Centrum Park General Development Plan on file in the office of the City Clerk as Document No. RR- 308139.

APPROVED: JAN I. GOLDSMITH, City Attorney

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

SMT:als
04/15/13
Or.Dept:City Council – District 6
Doc. No.: 543560

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of APR 30 2013

ELIZABETH S. MALAND
City Clerk

By May Zamora
Deputy City Clerk

Approved: _____
(date)

BOB FILNER, Mayor

Vetoed: 5/16/13
(date)

Bob Filner
BOB FILNER, Mayor

(See Attachment 1 for history and Attachment 2 for Mayor's written objections related to the veto.)

On Tuesday, April 30, 2013, Resolution Number R-308139 was passed by the Council of the City of San Diego with an 8 to 0 vote and District 4 vacant. The Mayor vetoed the resolution and returned it to the City Clerk with his written objections on Thursday, May 16, 2013.

On Tuesday, June 11, 2013, the Council reconsidered the resolution vetoed by the Mayor. The resolution received sufficient votes to override the Mayor's veto. Pursuant to Charter Section 285, the resolution shall be deemed approved and the date of Council's override shall be the date of final passage.

GS

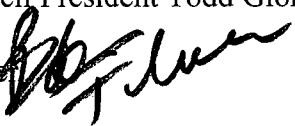


**MEMORANDUM
MAYOR BOB FILNER**

DATE: May 16, 2013

TO: Elizabeth Maland, City Clerk

CC: Honorable Council President Todd Gloria and Members of the City Council

FROM: Mayor Bob Filner 

SUBJECT: Resolution (R-2013-585) Waiving Council Policy 700-006 and Accepting Easement Along Property Lines of Centrum Park

I hereby veto Resolution 2013-585 Waiving Council Policy 700-006 and Accepting an Easement Along the Property Lines of Centrum Park for two reasons.

First and foremost, this Resolution was brought before the Council without any consultation with or input from the City's administrative staff. Consequently, the City's own expertise on land use matters was entirely bypassed resulting in an unfortunately uninformed decision. A bad record makes for bad policy.

Second, making certain factual findings without the benefit of staff's expertise and then directing the Park and Recreation Department to accept an easement based on those findings is an infringement on the administrative authority of the Executive Branch of the Mayor-Council form of government. The Charter specifically provides:

The [Mayor] and all non-managerial officers of the City *shall* inform the Council of all material facts or significant developments relating to all matters under the jurisdiction of the Council as provided under this Charter except as may be otherwise controlled by the laws and regulations of the United States or the State of California. . . .¹

Under this Charter section, the Mayor and the departments have an affirmative legal duty to inform the Council's consideration of all matters under the Council's jurisdiction. Further, under the Charter, the Mayor supervises the City's administrative affairs, which in this case would have

¹ San Diego City Charter, Art. V, §32.1 (emphasis added).

ensured that the land use planning staff fulfilled its duties to inform the Council's decision-making.

It shall be the duty of the [Mayor] to supervise the administration of the affairs of the City except as otherwise specifically provided in this Charter; to make such recommendation to the Council concerning the affairs of the City as may seem to him desirable
.....²

By bypassing the input of the Mayoral departments on the matters set forth in Resolution 2013-585, the Council has usurped this constitutional authority and duty to the citizens of San Diego.

For these reasons, I must veto Resolution 2013-585.

² Charter, Art. V, §28.

Passed by the Council of The City of San Diego on JUN 11 2013, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

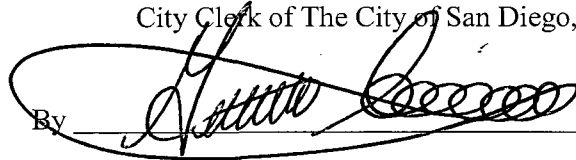
Date of final passage JUN 11 2013.

AUTHENTICATED BY:

BOB FILNER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By , Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 308139