

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, MARCH 28, 1995
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Golding at 11:04 a.m. Mayor Golding simultaneously convened the Redevelopment Agency Meeting with the regular meeting at 11:31 a.m. The meeting was recessed by Mayor Golding at 12:03 p.m. to meet at 2:00 p.m. in Closed Session in the 12th floor Conference Room to discuss pending litigation matters.

The meeting was reconvened by Mayor Golding at 2:32 p.m. with all members of the Council present. Mayor Golding adjourned the meeting at 4:03 p.m. to meet in Closed Session in the twelfth floor Conference Room to discuss Meet and Confer matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Golding-present
 - (1) Council Member Mathis-present
 - (2) Council Member Harvey-present
 - (3) Council Member Kehoe-present
 - (4) Council Member Stevens-present
 - (5) Council Member Warden-present
 - (6) Council Member Stallings-present
 - (7) Council Member McCarty-present
 - (8) Council Member Vargas-present
- Clerk-Fishkin (ew/mp)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Fishkin called the roll:

- (M) Mayor Golding-present
- (1) Council Member Mathis-present
- (2) Council Member Harvey-present
- (3) Council Member Kehoe-present
- (4) Council Member Stevens-present
- (5) Council Member Warden-present
- (6) Council Member Stallings-present
- (7) Council Member McCarty-present
- (8) Council Member Vargas-present

PUBLIC COMMENT:

None.

COUNCIL COMMENT:

ITEM-CC-2:

Comment by Council Member Stallings welcoming and thanking the students of Alcott Elementary School for coming down and observing how the City of San Diego conducts its business.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A015-028.)

ITEM-105:

SUBJECT: Judicial Foreclosure Related Costs and Fees.
(Mission Valley and Otay Mesa Community Areas.
Districts-6 and 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-95-1304) ADOPTED AS RESOLUTION R-285554

Approving a temporary advance of not to exceed \$73,500 from the Industrial Development Fund 30248 to cover cash shortfalls in the Special Assessment District Delinquency Fund 79900;

Authorizing the expenditure of not to exceed \$73,500 from the Special Assessment District Delinquency Fund 79900, for providing funds for foreclosure related costs and fees.

CITY MANAGER SUPPORTING INFORMATION:

The City of San Diego currently has nine Superior Court Judicial Foreclosure cases in process on seventy-one lots in the De La Fuente Business Park - Phases I and II in Otay Mesa and the First San Diego River Improvement Project in Mission Valley. As these cases advance through the foreclosure process, costs, fees, and deposits are incurred for:

- 1) Litigation Guarantees
- 2) San Diego County Property Tax Roll Removal Fees
- 3) Judgement copying and serving expenses
- 4) San Diego County Marshall deposits for levy and sale
- 5) San Diego County Marshall deposits for advertising

Aud. Cert. 9500943.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A389-414.)

MOTION BY McCARTY TO ADOPT. Second by Stallings. Passed by the following vote: Mathis-yea, Harvey-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-109:

SUBJECT: Industrial Hygiene Services Contract.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-95-1343) ADOPTED AS RESOLUTION R-285555

Authorizing an agreement with the County of San Diego, to provide industrial hygiene services from November 1, 1994 through October 31, 1995;

Authorizing the expenditure of an amount not to exceed \$35,000 (\$23,000 from Fund 50061, \$6,000 from Fund 41500, and \$6,000 from Fund 40012).

CITY MANAGER SUPPORTING INFORMATION:

In order to ensure safe and healthful working environments for City employees and the public utilizing City-owned facilities, as well as to maintain compliance with Cal-OSHA Regulations, the City needs to contract for the provision of industrial hygiene services. These services include provision of a vast number of technically based monitoring procedures not currently available within the City. Through the cooperative efforts of the Risk Management, Metropolitan Wastewater (MWW) and Water Utilities Departments, requests for proposals were issued for industrial hygiene services. These bidding documents were advertised in the San Diego Daily Transcript, San Diego Voice and Viewpoint, La Prensa San Diego and the San Diego Asian Journal. A Consultant Selection Panel consisting of members from the Risk Management, MWW and Water Utilities Departments evaluated the proposals and qualifications received based upon criteria which is consistent with Administrative Regulation 25.70. The County of San Diego was selected to provide these industrial hygiene services based primarily on cost effectiveness, response time and its local presence.

Aud. Cert. 9500537.

FILE LOCATION: MEET CONFY95-1

COUNCIL ACTION: (Tape location: A389-414.)

MOTION BY McCARTY TO ADOPT. Second by Stallings. Passed by the following vote: Mathis-yea, Harvey-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-205:

SUBJECT: Amendment to the City's TransNet Expenditure Plan.
(See City Manager Report CMR-95-68.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-95-1381) ADOPTED AS RESOLUTION R-285556

Adopting the City's amended 1994-2001 TransNet Expenditure Plan in accordance with City Manager Report CMR-95-68.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A415-B060.)

MOTION BY MATHIS TO APPROVE THE CITY MANAGER'S RECOMMENDATION TO AMEND THE 1994-2001 TRANSNET EXPENDITURE PLAN TO MOVE \$400,000 FORWARD FROM FY '97 TO FY '96 WITH THE PROVISION THAT SANDAG HAS TOLD STAFF THAT IF THE PROJECT IS READY TO GO ON CONSTRUCTION IN LATE '96, THEN THE CITY WOULD BE ABLE TO DRAW DOWN FROM SANDAG'S POOL NEAR THE END OF FY '96. Second by Warden. Passed by the following vote: Mathis-yea, Harvey-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-ineligible.

ITEM-310:

SUBJECT: Pending Litigation - Request for Reconsideration of the Revocation of Conditional Use Permit CUP-10-575-1 for a 24-unit Senior Citizen Apartment Complex, located at 926-928 45th Street.
(District-4.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-95-1340) ADOPTED AS RESOLUTION R-285559

- 1) Waiving the Permanent Rules of the City Council, relating to the time for making a motion to reconsider; and
- 2) Reconsidering the City Council's action of August 19, 1986, to revoke the Conditional Use Permit and refer the matter to the City Attorney's office to pursue compliance with zoning regulations; and

3) Directing the City Clerk to set the matter of whether or not to rescind the Council's action of August 19, 1986, on the earliest feasible Council docket after giving any required public notice.

SUPPORTING INFORMATION:

In 1979, the City granted Conditional Use Permit CUP-10-575-1 for a 24-unit senior citizen apartment complex at 926-928 45th Street. The Conditional Use Permit allowed 17 units above the number of units authorized under the zoning on condition that the units be occupied by persons over the age of 62. In August 1986, the Council conducted a hearing and voted to revoke the CUP and refer the matter to the City Attorney's office, on the basis that the units were not in fact occupied by senior citizens. The property has changed ownerships and litigation has been pursued by the present owner against the seller and lender for nondisclosure of the revocation. The seller and lender have cross-complained, challenging the validity of the 1986 revocation action.

The City Attorney and the lender have proposed that the litigation be settled as to the lender by the City reinstating the CUP with a condition that the units be actually occupied by senior citizens within one year and that failure to comply with the CUP conditions may result in a new revocation of the CUP. Today's recommended action would require six votes in favor to reconsider the revocation action and direct the City staff to renote the matter for a new hearing to be held April 18, 1995.

FILE LOCATION: PERM - CUP-10-575-1

COUNCIL ACTION: (Tape location: A029-349; C004-021.)

Motion by McCarty to reconsider the revocation and to waive the Permanent Rules of the City Council. Second by Harvey. Council Member McCarty withdrew her motion.

Motion by McCarty to go back into Closed Session and figure out what's going on with this matter. Second by Harvey. Passed by unanimous consent. Trailed to the afternoon session.

MOTION BY McCARTY TO ADOPT THE RESOLUTION TO WAIVE THE RULES AND RECONSIDER THIS MATTER WITH THE HEARING TO BE HELD ON APRIL 18, 1995. Second by Harvey. Passed by the following vote: Mathis-yea, Harvey-yea, Kehoe-yea, Stevens-nay, Warden-yea, Stallings-yea, McCarty-yea, Vargas-nay, Mayor

Golding-nay.

ITEM-330: HEARING HELD

SUBJECT: A preliminary hearing to allow public testimony relating to establishing the annual assessments for the Coral Gate Landscape Maintenance District. Council will take action at the subsequent hearing scheduled for May 2, 1995 at 10:00 a.m.
(San Ysidro Community Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Hold the public hearing.

FILE LOCATION: STRT M-341

COUNCIL ACTION: (Tape location: A389-414.)

Hearing began at 11:33 a.m. and halted at 11:42 a.m.

MOTION BY McCARTY TO APPROVE THE HEARING. Second by Stallings. Passed by the following vote: Mathis-yea, Harvey-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-yea, McCarty-yea, Vargas-nay, Mayor Golding-yea.

ITEM-331: DIRECTIONS GIVEN

SUBJECT: Three actions related to policy direction to the City Manager regarding the Land Development/Zoning Code Update which was acted upon by the Land Use and Housing Committee on March 1, 1995.
(See City Manager Report P-95-048 for a complete summary of the Citizens Advisory Committee and Planning Commission recommendations. Numbers within Subitems below refer to item numbers in Attachment 1 of the City Manager's Report.)

CITY MANAGER'S RECOMMENDATION:

Approve all 14 recommendations found in Subitems A, B and C as made by the Land Use and Housing Committee.

Subitem-A:

Direction to the City Manager regarding the following 12 issues which were approved by the Land Use and Housing Committee by a vote of 5-0:

(Item 2 - Conditional Uses): Direction to the City Manager to select approximately 10 uses that currently require a Conditional Use Permit citywide. Evaluate each use against the revised zones to determine if in some zones they can be permitted by right, permitted through a Neighborhood Use Permit (revised Process 2), or not permitted. Planning Commission to review any proposed changes. Establish a schedule for when the remaining conditional uses will be reviewed similarly.

(Item 3 - Hillside Development on Small Residential Lots): Direction to the City Manager to proceed with the proposed reduction in process to revised Process 2 for single unit residential lots under 20,000 square feet. Do not pursue an exemption for lots less than 7500 square feet. Require compliance with updated Hillside Design Guidelines that address appropriate design issues, including steep slope development issues, and that are available for review at the time of the second draft of the Code Update.

(Item 4 - Hillside Development on Large Residential Lots): Direction to the City Manager to proceed with the proposed reduction in process to revised Process 2 for single unit residential lots greater than 20,000 square feet. Require compliance with updated Hillside Design Guidelines that address appropriate design issues, including steep slope development issues, and that are available for review at the time of the second draft of the Code Update.

(Item 5 - Non-Conforming Projects): Direction to the City Manager to proceed with the proposed changes to the regulations for previously conforming (non-conforming) projects that were contained in the first draft of the code update but allow complete reconstruction of non-conforming structures to be permitted through a Process 1 decision. Include in the second draft of the Code Update a list of uses that could not be enlarged or expanded. Planning Commission to review the specific changes after the second draft of the Code Update.

(Item 6 - Environmental Sensitive Lands Regulations): Direction to the City Manager to draft regulations that treat comparable circumstances equitably,

notwithstanding location. Recognize that only in coordination with the Multiple Species Conservation Program implementation effort will there be a complete picture of all proposed regulation changes.

(Item 7 - Encroachment Calculation for Environmentally Sensitive Lands): Direction to the City Manager to proceed with a simplified method of calculating development encroachment (using a straight 25 percent of the total site area) for residential lots greater than 20,000 square feet and all non-residential lots as defined in the first draft of the Code Update.

Recognize the potential impacts of the Multiple Species Conservation Program proposals.

(Item 8 - Single Unit Residential Zones Development Regulations): Direction to the City Manager to proceed to incorporate revised modifications to the development regulations of the single unit base zones to address the issues of bulk and scale through height, setbacks, and floor area ratio. Regulations in the second draft should differentiate between infill projects in urbanized areas and new developments in urbanizing areas.

(Item 9 - New Single Unit Residential Zones): Direction to the City Manager to include the proposed RX and RT zones in the second draft of the Code Update to provide additional implementation tools for higher density residential land use designations. Apply to sites only after appropriate input from the community.

(Item 11 - Process 2 Changes): Direct the City Manager to proceed with the proposed changes to the Process 2 decision regulations as contained in the first draft of the Code Update. Maintain the fee for Process 2 appeals and continue to exempt recognized community planning groups from the fee. Persons who appeal will be charged a fee to be returned if the appeal is upheld.

(Item 12 - Using Use Categories Instead of Use Lists): Direction to the City Manager to proceed with the Use Category system with additional refinements such as adding additional categories, creating clearer descriptions of categories, and improving the format for how the categories are identified in the zones.

(Item 13 - Reduction and Consolidation of Development Permit Types): Direct the City Manager to proceed with the proposed reduction in number of permit types as proposed in the first draft of the Code Update.

(Item 14 - Consolidate Citywide Development

Regulations): Direct the City Manager to proceed with the consolidation and reorganization of the development regulations into consistent areas of the code.

Subitem-B:

Direction to the City Manager regarding the following issue which was approved by the LU&H committee by a vote of 3-2 (Councilmembers Warden, Harvey, and McCarty voted yea;

Councilmembers Mathis and Stevens voted nay): (Item 1 - Multi Unit Residential Projects): Direction to the City Manager to proceed with the draft code proposal to reduce the decision process to allow a larger number of units in a multi-unit residential zone to be build ministerially, while distinguishing between development occurring in urbanized and urbanizing communities.

Subitem-C:

Direction to the City Manager regarding the following issue which was approved by the LU&H committee by a vote of 3-2 (Councilmembers Warden, Harvey, and McCarty voted yea; Councilmembers Mathis and Stevens voted nay): (Item 10 - Companion Unit Regulations): Direction to the City Manager to: eliminate the suspension restriction for companion units based on the Apartment Vacancy Rate Survey; remove the prohibition on companion units in the Coastal Zone; and, maintain the Process 3 decision level for companion units. Continue to investigate circumstances where companion units could be approved through Process 1 or Process 2 and develop appropriate thresholds and criteria.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B061-238;C022-E102.)

MOTION BY MATHIS TO APPROVE THE LU&H RECOMMENDATIONS FOR ITEMS 5, 12, AND 13. Second by McCarty. Passed by the following vote: Mathis-yea, Harvey-not present, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea. Trailed to the afternoon session.

MOTION BY McCARTY TO APPROVE THE LU&H COMMITTEE'S

RECOMMENDATION FOR SUBITEM-A, ITEMS 2, 3, 4, 6, 7, 8, 9, 11, AND 14, COORDINATING ITEMS 6 AND 7 WITH MSCP. REFER THE QUESTIONS ON THE FLOOR AREA RATIO ASKED BY ARCHITECT JOHN OLEINIK BACK TO THE LU&H COMMITTEE FOR REVIEW PRIOR TO BRINGING IT BACK TO COUNCIL. Second by Harvey. Passed by the following vote: Mathis-yea, Harvey-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

Motion by McCarty to approve Subitem-B. Second by Harvey. Failed by the following vote: Yeas-2,5,7,8. Nays-1,3,4,6,M. Not Present-None.

MOTION BY MATHIS TO APPROVE SUBITEM-B, LEAVING THOSE THRESHOLD LEVELS AS THEY ARE CURRENTLY. DIRECT STAFF TO RETAIN THE CHANGES FOR THE EXISTING THRESHOLDS FOR URBANIZED AREAS OF THE CITY BUT TO LOOK AT CONSIDERING HIGHER THRESHOLDS FOR URBANIZING AREAS (NEWLY DEVELOPING AREAS). IF THE EXISTING ZONING DOES CONTROL THAT AND THERE IS SOME CONCERN ABOUT THE ZONING BEING IMPROPER, THEN REFER THAT MATTER TO THE LU&H COMMITTEE TO LOOK AT THOSE AREAS WHERE THE ZONING NEEDS TO BE CHANGED AS EXPLAINED BY DICK SMITH OF THE LA JOLLA COMMUNITY PLANNING ASSOCIATION--THE UNDERLYING ZONING COULD BE MORE COMMUNITY-SPECIFIC THAN THE OVERALL REGULATION COULD BE. INCLUDE STAFF'S SUGGESTION WITH RESPECT TO THE CHANGE IN THE PERMIT STRUCTURE THAT WILL ALLOW GOING THROUGH THE HIGHER PROCESS--BUILDING IN ACCORDANCE WITH THE ZONES, STAFF EVALUATION BASED ON IMPACT ANALYSIS OF HOW IT FITS IN WITH THE SURROUNDINGS, WITH THE BASE ZONING, PARKING, AND LANDSCAPING REQUIREMENTS BEING IN THE CITYWIDE REGULATIONS. Second by McCarty. Passed by the following vote: Mathis-yea, Harvey-yea, Kehoe-yea, Stevens-yea, Warden-nay, Stallings-yea, McCarty-yea, Vargas-nay, Mayor Golding-yea.

MOTION BY MATHIS TO APPROVE THE LU&H COMMITTEE'S RECOMMENDATION FOR SUBITEM-C WITH THE EXCEPTION OF THE CIRCUMSTANCES WHERE THE COMPANION UNITS CAN BE APPROVED THROUGH PROCESS 1 OR 2. REMOVE THAT LAST SECTION OF THE RECOMMENDATION AND MAKE IT ONLY PROCESS 3. STIPULATE THAT THIS IS NOT A "BY RIGHT" TYPE APPLICATION WHERE THERE IS AN ENTITLEMENT. DIRECT STAFF TO COME UP WITH AN ALTERNATIVE, APART OF THE ACTUAL CODE ITSELF, ON A PROCESS 2 TO SEE IF THERE IS SOME OTHER WAY, TAKING INTO CONSIDERATION THE ISSUES OF RESTRICTION, SENSITIVITY, SIZE OF LOT, NEIGHBORHOOD, CRITICAL HUMAN NEEDS, COMMUNITY INVOLVEMENT, ETC. TAKE THAT TO LU&H COMMITTEE FOR DISCUSSION PRIOR TO

COMING BACK TO COUNCIL. Second by St evens. Passed by the following vote: Mathis-yea, Harvey-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-CS-1: (R-95-1404) ADOPTED AS RESOLUTION R-285557

A Resolution adopted by the City Council in Closed Session on March 28, 1995:

Authorizing the City Manager to pay the total sum of \$25,000 in settlement of each and every claim against the City, its agents and employees, resulting from the personal injuries to Mark Allen Brown; authorizing the City Auditor and Comptroller to issue one check in the amount of \$25,000 made payable to Mark Allen Brown and his attorney of record, Godfrey L. Duke, Jr., in full settlement of all claims.

Aud. Cert. 9500978

FILE LOCATION: MEET

ITEM-CS-2: (R-95-1395) ADOPTED AS RESOLUTION R-285558

A Resolution adopted by the City Council in Closed Session on March 28, 1995:

Authorizing the City Manager to pay the total sum of \$65,000 in settlement of each and every claim against the City, its agents and employees, in Superior Court Case No. 676343, resulting from extra work performed on the construction of the Middletown Trunk Sewer, Phase I and II; authorizing the City Auditor and Comptroller to issue one check in the amount of \$65,000 made payable to Cass Construction Company, Inc., 4370 La Jolla Village Drive, Suite 600, San Diego, California, 92122, in full settlement of all claims.

Aud. Cert. 9500986

FILE LOCATION: MEET

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Golding at 4:03 p.m. in honor of the memory of Lottie C. Lundy and Earl Sheggrud as requested by Council Member Harvey.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: E103-114).