

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, MAY 18, 2004
AT 9:00 A.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 10:10 a.m. Mayor Murphy recessed the regular meeting at 10:11 a.m. to convene the Redevelopment Agency. The meeting was reconvened by Mayor Murphy at 10:13 a.m. with all Council Members present. Mayor Murphy recessed the meeting at 11:22 a.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 11:30 a.m. with Council Member Peters not present. The meeting was recessed by Mayor Murphy at 12:06 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:09 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 3:53 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 4:07 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 5:43 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 5:54 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 6:33 p.m.

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 (ek/gS)

FILE LOCATION: MINUTES

ITEM-300: 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-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Theresa Quiroz commented on speaking before the City Council and the citizen's right to be heard.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:46 a.m.)

PUBLIC COMMENT-2:

Al Strohlein spoke on the number of DUIs in Pacific Beach.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:49 a.m.)

PUBLIC COMMENT-3:

Don Stillwell commented on prayer before City Council meetings.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:50 a.m. – 10:51 a.m.)

PUBLIC COMMENT-4:

Jarvis Ross commented on the declaration of WWII by President Roosevelt and the Constitution.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:52 a.m. – 10:54 a.m.)

PUBLIC COMMENT-5:

Vanessa Royall spoke on the closing of the YWCA on June 30, 2004.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:55 a.m. – 10:56 a.m.)

PUBLIC COMMENT-6:

Ron Boshun commented on the actions of the City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:58 a.m. – 11:01 a.m.)

PUBLIC COMMENT-7:

Martha Welch commented on the timing of speakers before the City Council, and the schedule for riding the trolley.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:02 a.m. – 11:03 a.m.)

PUBLIC COMMENT-8:

Margie Peary spoke on the living conditions at De Anza Cove.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:04 a.m. – 11:07 a.m.)

PUBLIC COMMENT-9:

Sandy Summers commented on evolution.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:08 a.m. – 11:10 a.m.)

PUBLIC COMMENT-10: REFERRED TO THE CITY MANAGER

Dreux Benne commented on the redesign of the intersection located at 19th and “J” Streets.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:11 a.m. – 11:13 a.m.)

PUBLIC COMMENT-11:

Arleen Freeman commented on the persecution of Chinese practitioners in our Sister City in China.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:15 a.m. – 11:18 a.m.)

PUBLIC COMMENT-12:

Gregorie Garber spoke on the mastery of the art of deception, and the POW scandal in Iraq.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:19 a.m. – 11:21 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Lewis expressed frustration on the YWCA project and stated that he is aware of the needs of the residents as it pertains to child-care in the community.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:57 a.m. – 10:57 a.m.)

COUNCIL COMMENT-2:

Council Member Madaffer announced that this Saturday, May 22, 2004, will be Explore Mission Trails Day which will start at 9:00 a.m. There will be a variety of activities and the public is invited to attend.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:32 a.m. – 11:32 a.m.)

COUNCIL COMMENT-3:

Council Member Atkins mentioned the Jamies Way dedication of a bench in her name and the various awards that have been presented in her name.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:33 a.m. – 11:34 a.m.)

COUNCIL COMMENT-4:

Mayor Murphy drew attention to an article in Men's Journal which identified the City of San Diego as the Number One best city to live in in the United States.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:35 a.m. – 11:35 a.m.)

CITY MANAGER COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-150: This item has been moved to Monday's meeting of May 17, 2004, Item #260.

ITEM-200: Two actions related to Equipment and Vehicle Financing Program.

(See City Manager Report CMR-04-082.)

CITY MANAGER'S RECOMMENDATION:

Introduce the ordinance in Subitem A and adopt the resolution in Subitem B:

Subitem-A: (O-2004-130) INTRODUCED, TO BE ADOPTED
MONDAY, JUNE 7, 2004

Introduction of an Ordinance Authorizing a Master Lease Agreement for the purpose of financing and refinancing the acquisition of equipment through lease-purchase.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

Subitem-B: (R-2004-1119) ADOPTED AS RESOLUTION R-299244

Authorizing the City Manager to execute a Master Lease Agreement with the most responsive, duly qualified, responsible, and competitive lease provider and backup lease provider(s) for a 3-year lease term, for the purpose of financing and refinancing the acquisition of equipment through lease-purchase;

Authorizing the City Manager to execute a Master Lease Agreement with the most responsive, duly qualified, responsible, and competitive lease provider and backup lease provider(s) for a 4-year lease term, for the purpose of financing and refinancing the acquisition of equipment through lease-purchase.

FILE LOCATION: SUBITEM A: NONE
SUBITEM B: PURCHASE

COUNCIL ACTION: (Time duration: 10:15 a.m. - 10:15 a.m.)

MOTION BY MADAFFER TO INTRODUCE THE ORDINANCE IN SUBITEM A AND ADOPT THE RESOLUTION IN SUBITEM B. 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: Housing Enhancement Loan Program in the Crossroads Redevelopment Project Area.

(See City Manager Report RA-04-11/CMR-04-066. College and Mid-City Community Areas. Districts-4 and 7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1073) ADOPTED AS RESOLUTION R-299245

Declaring that the Council finds and determines that the use, outside of the College Grove Redevelopment Project Area, of Housing Set-Aside Funds allocated by the Agency from the College Grove Redevelopment Project within the Crossroads Redevelopment Project, pursuant to Section 33670 of the California Community Redevelopment Law, for the purpose of increasing, improving and preserving the City's supply of low-and-moderate income housing available at affordable housing cost will be of benefit to the College Grove and Crossroads Redevelopment Projects.

NOTE: See the Redevelopment Agency Agenda of 5/18/2004 for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:13 a.m.)

MOTION BY MADAFFER TO ADOPT. Second by Peters. 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-250: 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 November 2, 2004 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	5/28/2004	158	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee.
Wednesday	6/16/2004	139	Rules Committee review of ballot proposals.
Monday	6/21/2004	134	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee.
Monday	6/28/2004	127	Council adopts propositions for ballot; directs City Attorney to prepare ordinances.
Monday	through 7/19/2004	to 106	
Monday	7/26/2004	99	Council adopts ordinances prepared by City Attorney.

Friday	8/06/2004	88	Last day for City Clerk to file with Registrar of Voters all elections material.
Thursday	8/19/2004	75	Last day to file ballot arguments with City Clerk.

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

ITEM-260: Collection Services Re-Routing/Greenery Expansion Project.

(See City Manager Report CMR-04-083.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-1207) ADOPTED AS RESOLUTION R-299243

Accepting the City Manager's report on the planned re-routing of refuse collection services and the expansion of greenery collection services.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

Informational report only. No action taken.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:17 a.m. – 10:43 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Frye. 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-330: Casa De Las Campañas.

Matter of approving, conditionally approving, modifying, or denying a Conditional Use Permit, an amendment to Conditional Use Permit No. 99-0747, and Water Easement Abandonment to allow for the construction of a 13,709 square-foot special care facility with a 5,075 square-foot courtyard area and basement parking garage located at 18655 West Bernardo Drive.

(CUP No. 9867/EA No. 44889/PTS No. 5949. Rancho Bernardo Community Plan Area. District-5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the resolutions in subitems A and B; and adopt the resolution in subitem C to grant the permit:

Subitem-A: (R-2004-1138) ADOPTED AS RESOLUTION R-299246

Adoption of a Resolution certifying that the information contained in Environmental Negative Declaration LDR No. 5949 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration 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 this Council in connection with the approval of land use item actions for this Project;

That the Council finds, based upon the Initial Study and any comments received, that there is no substantial evidence that the project will have a significant effect on the environment and therefore the Negative Declaration is approved;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2004-1139) ADOPTED AS RESOLUTION R-299247

Adoption of a Resolution vacating the water utility easement located within Casa de Las Campañas property, in Rancho Bernardo community area, in connection with conditional use permit and shown on Drawing No. 11273;

That the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the office of the County Recorder.

Subitem-C: (R-2004-1368) GRANTED PERMIT, ADOPTED AS
RESOLUTION R-299248

Adoption of a Resolution granting or denying Conditional Use Permit No. 9867, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on October 30, 2003, voted 6 – 0 to approve; no opposition.

Ayes: Brown, Garcia, Lettieri, Chase, Ontai, Steele
Not present: Schultz

The Rancho Bernardo Community Planning Board has recommended approval of this project.

CITY MANAGER SUPPORTING INFORMATION

Casa de Las Campañas, an existing conditional use permitted elderly-care residential campus facility located on a 22.7 acre parcel at 18655 West Bernardo Drive, within the Rancho Bernardo Community Plan area and zoned RM-2-5, proposes to construct an 18,911 square-foot, special care residence addition to their existing senior congregate care building. The single story special care facility, designed specifically for residents who suffer from dementia-related illness, consists of 27 beds, common kitchen and dining area, housekeeping and laundry area, care staff offices, courtyard, and basement parking garage with 32 spaces. Construction of the campus addition requires the relocation of the facility's public water service pipeline, the abandonment of a portion the existing City water utility easement, and the amendment to the campus' Conditional Use Permit No. 99-0747.

Planning Commission Recommendation: The Planning Commission considered this project on October 30, 2003, and voted 6 – 0 (Commissioner Schultz absent) to recommend that the City Council adopt City staff recommendations to approve the project as presented in the Planning Commission Report No. P-03-332.

Community Planning Group Recommendation: On May 30, 2003, the Rancho Bernardo Community Planning Board unanimously voted to recommend approval of the project.

Manager's Recommendation: Certify Negative Declaration No. 5949. Approve Conditional Use Permit No. 9867 and Easement Abandonment No. 44889.

Water Quality Impact Statement: During construction, this project will comply with Best Management Practices (BMPs) through preparation of a Storm Water Pollution Prevention Plan (SWPPP) in conjunction with the grading plans. The SWPPP will identify all BMPs to be implemented during the construction phase to reduce/eliminate discharges of pollutants into the adjacent natural areas. The post development Best Management Practices (BMPs) incorporated into the project consists of site design, source control and treatment. The project's post development runoff will be collected and conveyed by public and private drainage systems. The post-construction BMPs detailed in the Water Quality Technical Report have been evaluated and accepted by the City Engineer. The property owner(s) will be responsible for the long term maintenance of all private drainage facilities.

FISCAL IMPACT:

All costs associated with the project are recovered from a deposit provided by the applicant.

Herring/Escobar-Eck/TPD

LEGAL DESCRIPTION:

The approximately 22.7-acre site is located at 18655 West Bernardo Drive and within the Rancho Bernardo Community Planning Area and is more particularly described as Lots 1-9 Casa De Las Campanas, Map No. 11273.

FILE LOCATION: SUBITEMS A & C: LUP-Casa De Las Campanas
05/18/04 (65)
SUBITEM B: DEED F-9730

COUNCIL ACTION: (Time duration: 10:14 a.m. – 10:14 a.m.)

MOTION BY MAIENSCHIN TO ADOPT THE RESOLUTIONS IN SUBITEMS A AND B; AND ADOPT THE RESOLUTION IN SUBITEM C TO GRANT THE PERMIT. 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-S500: ~~Four~~ Three actions related to Proposed Rezonings to Remove Areas within the City of San Diego from the Transit Area and Residential Tandem Parking Overlay Zones.

(Continued from the meetings of March 30, 2004, Item 333; May 4, 2004, Item 330; last continued from May 11, 2004, Item S500, at the request of Councilmember Frye for amendment of ordinances.)

Matter of approving, conditionally approving, modifying or denying proposed rezonings to remove areas within the City of San Diego from the Transit Area and Residential Tandem Parking Overlay Zones.

(See City Manager Report CMR-04-060. All Community Plan Areas. Districts-All.)

NOTE: Hearing open. Testimony taken on 5/11/2004. Hearing open. Testimony taken on 5/04/2004. Hearing open. No testimony taken on 3/30/2004.

TODAY'S ACTIONS ARE:

Introduce the ordinances in subitem A, B and C; and adopt the resolution in subitem D:

Subitem-A: (O-2004-119 Cor. Copy3) INTRODUCED, TO BE ADOPTED
MONDAY, JUNE 7, 2004

Introduction of an Ordinance deleting property located in the City of San Diego from the Residential Tandem Parking Overlay Zone as defined in Chapter 13, Article 2, Division 9, of the San Diego Municipal Code and the Transit Area Overlay Zone as defined in Chapter 13, Article 2, Division 10 of the San Diego Municipal Code, and repealing Ordinance No. O-18911 (New Series), adopted January 9, 2001.

Subitem-B: (O-2004-118 Cor. Copy3) INTRODUCED, TO BE ADOPTED
MONDAY, JUNE 7, 2004

Introduction of an Ordinance amending Chapter 13, Article 2, Division 9, by amending Section 132.0902; and Chapter 13, Article 2, Division 10, by amending Section 132.1002, pertaining to the Residential Tandem Parking Overlay Zone and the Transit Area Overlay Zone, respectively.

Subitem-C: (O-2004-137) INTRODUCED, TO BE ADOPTED
MONDAY, JUNE 7, 2004

Introduction of an Ordinance amending Chapter 13, Article 2, Division 9, by amending Section 132.0902; and Chapter 13, Article 2, Division 10, by amending Section 132.1002, pertaining to the Residential Tandem Parking Overlay Zone and the Transit Area Overlay Zone, respectively.

Subitem-D: (R-2004-1198) ADOPTED AS RESOLUTION R-299249

Adoption of a Resolution certifying that the information contained in the final Land Development EIR, File No. 96-0333, including any comments received during the public review process, has been previously reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline section 15162 would warrant any additional environmental review in connection with approval of transit area and residential tandem parking overlay zones;

That the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 06/04/03, LU&H voted 4-0 to direct the City Manager to move expeditiously to bring the issue of rescinding or amending the Transit Area Overlay Zone and Residential Tandem Parking Overlay boundaries to City Council, as previously approved by the Land Use and Housing Committee on September 4, 2002. (Councilmembers Peters, Atkins, Lewis, Frye voted yea. Councilmember Zucchet not present.)

OTHER RECOMMENDATIONS:

Planning Commission on October 16, 2003 voted 7-0 to approve; was opposition.

Ayes: Lettieri, Brown, Chase, Garcia, Ontai, Schultz and Steele.

This is a matter of City-wide effect. The following community group(s) have taken a position on the item:

On January 22, 2002, and again on July 23, 2002, the Community Planners Committee voted recommended the rescission of the January 2001 amendments to the Transit Area Overlay Zone and the Residential Tandem Parking Overlay Zone.

Clairemont-Mesa Planning Committee
Encanto Neighborhoods Community Planning Group

SUPPORTING INFORMATION:

In January 2001, the City Council approved amendments to the Transit Overlay Zone (TAOZ) and Residential Tandem Parking Overlay Zone (RTPOZ) as part of the Second Update to the Land Development Code. In January 2002, the Community Planners Committee (CPC) adopted a resolution addressing their belief that these overlay zones were illegally adopted and that inappropriate standards were used, and requested that the Land Use and Housing Committee (LU&H) take several actions related to these amendments.

On June 12, 2002, LU&H continued the item and asked staff to return on September 4, 2002, with further analysis on the consistency of the overlay zones with the community plans and where these overlay zones should be applied. LU&H also directed staff to take the issue back to CPC prior to their September 2002 meeting. On July 23, 2002, CPC heard the item and reiterated their previous concerns. They also requested that the overlay zone amendments be rescinded and that a new process be established to revise these zones. Staff returned to LU&H on September 4, 2002, with an information report detailing the application of the TAOZ/RTPOZ and its relation to the community plans and the draft Strategic Framework analysis and recommendations.

On June 4, 2003, LU&H recommended that the amendment or repeal of the overlay zones be added to the Land Development Code Update Fiscal Year 2003 Work Program. Due to staff constraints during Fiscal Year 2003 this issue was carried over into this fiscal year's work program.

Most recently, the Planning Commission reviewed the proposed project, on October 16, 2003, and recommended that the City Council deny the request and direct staff to include review of these overlay zones as part of the Mobility Element. The Planning Commission also directed staff to bring this item to the Manager's Parking Task Force for their input and stipulated that during review of these issues under the Mobility Element, staff should consider transit locations, the relationship between transit and land use, keeping affected community groups involved and that regional implications and implementation be a consideration.

This proposal was presented to the Manager's Parking Task Force on November 17, 2003, as an information item.

FISCAL IMPACT:

Staff was directed to work on this item as part of the Land Development Code Implementation work program for Fiscal Year 2004 by the Land Use and Housing Committee as its meeting on July 23, 2004 (CMR No. 03-168). The staffing costs and fiscal impact to prepare the proposed regulations are part of the Land Development Code Implementation work program.

Ewell/Christiansen/SDD

FILE LOCATION: SUBITEMS A, B & C: NONE
SUBITEM D: LUP-Proposed Rezoning to remove areas within the City of San Diego from the transit area and residential tandem parking overlay zones 3/30/04 (65)

COUNCIL ACTION: (Time duration: 10:15 a.m. – 10:15 a.m.)

MOTION BY FRYE TO INTRODUCE THE ORDINANCES IN SUBITEM A, B AND C; AND ADOPT THE RESOLUTION IN SUBITEM D. Second by Atkins. 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.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 6:33 p.m..

FILE LOCATION: MINUTES

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