

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, JANUARY 25, 2005
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 10:07 a.m. Mayor Murphy recessed the meeting at 11:09 a.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 11:15 a.m. with all Council Members present. Mayor Murphy recessed the meeting at 11:50 a.m. to convene the Redevelopment Agency. The regular meeting was reconvened at 12:00 p.m. with Council Member Inzunza not present. Mayor Murphy recessed the meeting at 12:01 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:06 p.m. with Deputy Mayor Zucchet and Council Member Inzunza not present. Mayor Murphy recessed the meeting at 2:07 p.m. to reconvene the Redevelopment Agency. Mayor Murphy reconvened the meeting at 2:48 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 3:48 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 4:00 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 5:40 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 5:45 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 6:40 p.m. into Closed Session immediately thereafter in the 12th floor committee 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 Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Maland (pr/er)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

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

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Comment by Don Stillwell on "The Law That Never Was," regarding paying income taxes.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:17 a.m. – 10:19 a.m.)

PUBLIC COMMENT-2:

Comment by Daniel Coffey regarding working for the City Attorney and his duties.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:23 a.m.)

PUBLIC COMMENT-3:

Comment by Jarvis Ross regarding write-in candidates, and the constitutional rights of the people.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:23 a.m. – 10:26 a.m.)

PUBLIC COMMENT-4:

Comment by Al Strohle in regarding document destruction.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:29 a.m.)

PUBLIC COMMENT-5:

Comment by Joyceline Tarr regarding articles in the “Reader.”

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:30 a.m.)

PUBLIC COMMENT-6:

Comment by Sandy Summers regarding domestic terrorists.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:30 a.m. – 10:33 a.m.)

PUBLIC COMMENT-7:

Comment by James Justus regarding the “Race Legal” program and funding assistance.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:36a.m.)

PUBLIC COMMENT-8:

Comment by Ron Boshun regarding council actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:39 a.m.)

PUBLIC COMMENT-9:

Comment by Byran Barton regarding his problems with college administrators.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:39 a.m. – 10:43 a.m.)

PUBLIC COMMENT-10:

Comment by Phil Hart regarding the Mayor and the Council, and their performance.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:43 a.m. – 10:47 a.m.)

PUBLIC COMMENT-11:

Comment by Megan Sewell and Danielle Katz regarding representing the “Students Against Animal Suffering and Animal Advocates” at San Diego State University, and the suffering of the seals at La Jolla Children’s Pool.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:48 a.m.)

PUBLIC COMMENT-12:

Comment by Hud Collins regarding the City Attorney, and conflicts of interest.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:49 a.m. – 10:52 a.m.)

PUBLIC COMMENT-13:

Comment by Elnord Joseph regarding his need for help to find a job to enable him to take care of his eight children.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:52 a.m. – 10:55 a.m.)

PUBLIC COMMENT-14:

Comment by Edward Johnson regarding his feelings that he was uprooted by the San Diego Police Department.

FILE LOCATION: AGENDA

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

PUBLIC COMMENT-15:

REFERRED TO THE CITY MANAGER

Comment by Muhammed Abdullah regarding police tactics at a recent protest in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. – 11:00 a.m.)

PUBLIC COMMENT-16:

Comment by Andy Berg regarding the postponement of awarding contracts for water and sewer.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:01 a.m. – 11:04 a.m.)

PUBLIC COMMENT-17:

Comment by Steven Ward regarding plans to over develop the northern Encanto area.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:06 a.m. – 11:08 a.m.)

COUNCIL COMMENT:

None.

CITY MANAGER COMMENT:

None.

CITY ATTORNEY COMMENT:

Assistant City Attorney Les Girard reported on two matters taken up in Closed Session yesterday as follows:

Closed Session Item Number 2, two cases, both entitled Del Mar Union School District v. City of San Diego; RIC 390648 and RIC 390673; the City Council voted to appeal the Trial Court decision in those matters by a vote of 7 to 1, with District 6 voting nay, and District 5 absent. In the second matter noticed as Closed Session Item Number 5, Howard Jarvis Taxpayers Association v. City of San Diego, Case No. GIC 706260; the City Council voted not to appeal the award of attorneys fees in that matter by an 8 to 0 vote, with District 5 absent.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:16 a.m. – 11:16 a.m.)



ITEM-330: First Amendment to Lease Agreement for the Park and Ride Facilities at College Grove Shopping Center.

(See City Manager Report No. CMR-05-013. Eastern Community Planning Area/College Grove Redevelopment Project Area. District 7.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2005-78) CONTINUED TO TUESDAY, MARCH 1, 2005

Introduction of an Ordinance authorizing the City Manager or designee to execute the First Amendment to the Lease Agreement for Park and Ride Facilities at the College Grove Shopping Center.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:17 a.m. – 11:49 a.m.)

MOTION BY MADAFFER TO CONTINUE THIS ITEM TO TUESDAY, MARCH 1, 2005, FOR FURTHER REVIEW. Second by Young. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-331: Amending the Transportation Phasing Plan in the General Dynamics Development Agreement to Exclude Projects Identified as Zero ADT Obligations.

(Kearny Mesa Community Area. District 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-501) ADOPTED AS RESOLUTION R-300072

Declaring that in furtherance of LNR Kearny Mesa, Inc.'s advance funding obligations for the Project under the Assurance Agreement, the City releases LNR from performance of the Zero ADT obligations; and

Directing the City Manager to release any and all securities held by City in the form of letters of credit pertaining to the released Zero ADT obligations.

CITY MANAGER SUPPORTING INFORMATION:

The New Century Center Environmental Impact Report (EIR) No. 96-0165, recommended that certain zero ADT improvements be constructed as a part of the "project features" for the development and requested by the Kearny Mesa Community Planning Group (KMCPG). These zero ADT improvements were not required as mitigation for the project impacts. The intersection improvements (zero ADT obligations) are: (1) Balboa Avenue/Sport Mart Center access, (2) Balboa Avenue/Viewridge Road, and (3) Balboa Avenue/Kearny Villa Road. The developer provided letters of credit totaling \$987,186 to cover the costs of these improvements.

Since that initial EIR, the cost of the Clairemont Mesa Boulevard/I-15 Interchange has doubled as a result of changes in the scope of the project and increased costs of construction. Because of this and the undesired impacts due to right of way issues on the affected property owners, the KMCPG (in a letter dated April 17, 2002), has determined that the funds once earmarked by the developer for these "project features" now be directed toward the Clairemont Mesa Boulevard/I-15 Interchange improvements. City staff agrees with this proposal in light of the project increases. Therefore, it is recommended that the \$987,186 be used to offset the rising costs of the Interchange.

FISCAL IMPACT:

None.

Ewell/Goldberg

FILE LOCATION: DEV'L-GENERAL DYNAMICS DEVELOPMENT
AGREEMENT, AMENDING THE TRANSPORTATION
PHASING PLAN TO EXCLUDE PROJECT IDENTIFIED
AS ZERO ADT OBLIGATIONS (07)

COUNCIL ACTION: (Time duration: 10:11 a.m. – 10:12 a.m.)

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

ITEM-332: Two actions related to San Diego Fire/Rescue Helicopter Procurement.

(See City Manager Report No. CMR-05-015.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-728) **RETURNED TO THE CITY MANAGER**

Authorizing the City Manager to award a contract to Acroheliopro Global Services to acquire, inspect, repair as necessary, and deliver one refurbished Bell 212HP Fire/Rescue Helicopter, subject to contract approval by the City Attorney;

Authorizing the City Manager to finance one Bell 212HP Fire/Rescue Helicopter under the Equipment and Vehicle Financing Program over a period of either seven or ten years or by cash funding with the intent to reimburse when financing is available.

Subitem-B: (R-2005-731) **RETURNED TO THE CITY MANAGER**

Declaring the intent of the City of San Diego to use proceeds of indebtedness to reimburse itself for expenditures in connection with the purchase of a Bell 212HP Fire/Rescue Helicopter.

FILE LOCATION: SUBITEMS A & B: MEET

COUNCIL ACTION: (Time duration: 10:09 a.m. – 10:09 a.m.)

MOTION BY COMMON CONSENT TO RETURN THIS ITEM TO THE CITY MANAGER FOR FURTHER REVIEW. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



[ITEM-333](#): Street Vacation - Portion of Sorrento Valley Road.

(Torrey Pines Community Plan Area. District 1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-506) CONTINUED TO TUESDAY, MARCH 1, 2005

Vacating a portion of Sorrento Valley Road, reserving therefrom a sewer easement together with ingress and egress for that purpose.

CITY MANAGER SUPPORTING INFORMATION:

The vacation of a portion of Sorrento Valley Road has been requested by Soval LLC, the adjoining property owner at 11230 Sorrento Valley Road. The street segment proposed for vacation is unimproved and neglected. The street is not and will not be utilized for right of way purposes. Vacating this part of the street will leave a 100 feet wide public right-of-way, which is sufficient for current and projected traffic volumes.

The area of vacation totals 18,765 square foot and is situated in an IL-3-1 zone which allows commercial use. Current lot size of the applicant's property is 88,950 square feet which allows a maximum floor area of 177,900 square feet. The current use of the applicant's property is a multi-tenant 2 story office building having a floor area of approximately 28,025 square feet. Along with the vacated street, the lot size would be increased to 107,715 square feet, allowing subject to review, a potential floor area of 215,430 square feet. Although having no current plans for the vacated area, the applicant may develop the vacated street area in conformance with appropriate codes.

The local community planning group, the Torrey Pines Community Planning Board voted in favor of the street vacation 8 yes, 0 no, 3 abstention, noting that "In spite of what MTDB (Metropolitan Transit District Board) believes to be adequate parking at the Sorrento Valley Coaster Station, the TPCPB believes that parking is inadequate and discouraging to those wanting to use mass transit for commuting purposes. By vacating the easement, the City will lose the opportunity to use this site for parking in the future should a funding source for its acquisition become available." A review was sent to MTDB and it does not have plans to acquire this area for a parking lot.

FINDINGS; Staff review has indicated that the right-of-way to be vacated may be summarily vacated and that the four required findings for vacation can be made.

1. That there is no prospective use for the right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated – The remaining street has adequate width. A utility easement will be reserved for an existing public sewer main.
2. That the public will benefit from the action through improved utilization of land made possible by the street vacation – The land will revert to private ownership and will relieve the City of maintenance. The applicant will be responsible for up keeping this neglected area.
3. That the vacation is not inconsistent with the General Plan, an approved Community Plan or the Local Coastal Program – The portion of the street being vacated is not part the community plan transportation element. The Torrey Pines Community Planning Board recommends approval of the street vacation.
4. That the facility for which the right-of-way as originally acquired will not be detrimentally affected by the street vacation – There are no present or future plans to construct a street in this area.

FISCAL IMPACT:

None. All costs are paid for by the applicant.

DEVELOPMENT SERVICES DEPARTMENT RECOMMENDATION:

Approval of this request.

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15061(b)(3).

Loveland/Broughton/AKW

FILE LOCATION: STRT J2967 (39)

COUNCIL ACTION: (Time duration: 10:07 a.m. – 10:09 a.m.)

MOTION BY PETERS TO CONTINUE THIS ITEM TO TUESDAY, MARCH 1, 2005, FOR FURTHER REVIEW. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inunza-not present, Mayor Murphy-yea.



ITEM-334: Two actions related to the Pacific Highlands Ranch Public Facilities Financing Plan and Facilities Benefit Assessment, FY 2005.

(See City Manager Report CMR-04-231; Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2005 Draft. Pacific Highlands Ranch Community Area. District-1.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2005-477) ADOPTED AS RESOLUTION R-300073

Designating an area of benefit in Pacific Highlands Ranch and the boundaries thereof, confirming the description of Public Facilities Projects, the Community Financing Plan and Capital Improvement Program with respect to Public Facilities Projects, the method for apportioning the costs of the Public Facilities Projects among the parcels within the area of benefit assessments charged to each such parcel, the basis and methodology for assessing and levying discretionary automatic annual increases in Facilities Benefit Assessments, and proceedings thereto, and ordering of proposed Public Facilities Project in the matter of Pacific Highlands Ranch Facilities Benefit Assessment Area.

Subitem-B: (R-2005-478 Cor. Copy) ADOPTED AS RESOLUTION R-300074

Approving the Development Impact Fee [DIF] schedule for properties within Pacific Highlands Ranch.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 12/01/2004, LU&H voted 4-0 to approve the City Manager's recommendation with direction to the City Manager to continue to work with property owners prior to Council consideration. (Councilmembers Peters, Zucchet, Frye and Inzunza voted yea. District 4-vacant).

FILE LOCATION: SUBITEMS A & B: STRT FB 20 (33)

COUNCIL ACTION: (Time duration: 10:12 a.m. -10:13 a.m.)

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



ITEM-335: A-1 Self Storage.

Matter of approving, conditionally approving, modifying or denying an application to amend the Mission Valley Community Plan to require a Planned Development Permit to accommodate storage uses with commercially designated areas, and also for a Planned and Site Development Permit(s) to allow the development of a multi-story, approximate 142,550 square-foot, self storage building on a vacant 1.92 acre site located at 2231 Hotel Circle South, south of Interstate 8 and Hotel Circle South, east of Taylor Street and west of Hotel Circle Court, in the MV-CO-CV (Commercial-Office and Commercial-Visitor) Zones of the Mission Valley Planned District, Campus Parking Impact Overlay Zone.

(Mission Valley Community Plan Area. District 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the resolutions in Subitems A and B; and adopt the resolution in subitem C to grant the permits:

Subitem-A: (R-2005-673) ADOPTED AS RESOLUTION R-300075

Adoption of a Resolution certifying that Mitigated Negative Declaration Project No. 14953, on file in the office of the City Clerk, 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 the 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 the community plan amendment, planned development permit, site development permit and rescission of the Mission Valley development/resource protection ordinance for the A-1 Self Storage Project;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is approved;

That pursuant to California Public Resource Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference;

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-2005-674) ADOPTED AS RESOLUTION R-300076

Adoption of a Resolution amending to the Mission Valley Community Plan, a copy of which is on file in the office of the City Clerk;

That the Council adopts the amendment to the Progress Guide and General Plan for the City of San Diego to incorporate the amended plan.

Subitem-C: (R-2005-) GRANTED PERMITS, ADOPTED AS
RESOLUTION R-300077

Adoption of a Resolution granting or denying Planned Development Permit No. 39904, Site Development Permit No. 39906, and rescinding MVD/RPO Permit No. 98-0455, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on September 16, 2004, voted 6-0 to approve; no opposition.

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

Not Present: Otsuji

The Mission Valley Community Planning Group has recommended approval of this project.

CITY MANAGER SUPPORTING INFORMATION:

This is a request for: an Amendment to the Mission Valley Community Plan and the Progress Guide and General Plan, Planned Development Permit No. 39904, Site Development Permit No. 39906 and Rescission of Mission Valley Development and Resource Protection Ordinance Permit No. 98-0455, to allow development of a multi-story, 139,558 square-foot, self storage facility on a vacant 1.92-acre site addressed as 2231-2245 Hotel Circle South, located south of Interstate 8, east of Taylor Street and west of Hotel Circle Court. The amendment to the Mission Valley Community Plan would allow self-storage uses in commercial areas under certain circumstances. The site is zoned MV-CO-CV (Commercial-Office and commercial-Visitor) within the Mission Valley Planned District. The Planning Commissioners recommendation included the addition of a condition to the draft Permit that the roof of the proposed building comprise a grey/green color. This condition was intended to address concerns related to sustainability and visual impacts of the project by reducing the reflectivity and improve aesthetics. The revised draft Permit and Resolution are attached.

Community Planning Group Recommendation: On July 7, 2004, the Mission Valley Unified Planning Committee voted 14-2-1 to recommend approval of the application.

Planning Commission Recommendation: On September 16, 2004, the Planning Commission recommended approval of the project by a vote of 6-0 with an added condition that the roof of the proposed building comprise a grey/green color. This condition was intended to address concerns related to sustainability and visual impacts of the project by reducing the reflectivity and improve aesthetics. Planning Commission Report No. PC-04-145, the revised draft permit including the added Condition (No. 49.a.) and draft resolution are included.

FISCAL IMPACT:

All staff costs associated with processing of this project are recovered from a separate deposit provided and maintained by the Applicant.

Loveland/Halbert/WCT

LEGAL DESCRIPTION:

The proposed project is located at 2231 and 2245 Hotel Circle South within the Mission Valley Planned District Ordinance Parcel A: Lot 1 of A.S.C. Subdivision, Map 8720; Parcel B: and is more particularly described as Lot No. 1120 of Pueblo Lands.

FILE LOCATION: SUBITEMS A, B & C: LUP-A-1 Self Storage 1/25/05
(65)

COUNCIL ACTION: (Time duration: 10:13 a.m. – 10:15 a.m.)

MOTION BY FRYE TO ADOPT THE RESOLUTIONS TO MOVE THE DISCRETIONARY ACTIONS TO AMEND THE MISSION VALLEY PDO TO ALLOW USE IN COMMERCIAL ZONES BY THE PLANNED DEVELOPMENT PERMIT, AND TO ALLOW THE SELF STORAGE USE WITHIN A COMMERCIAL ZONE, AND THE MISSION VALLEY PDO. APPROVE THE SITE DEVELOPMENT PERMIT ON THE PARCEL CONTAINING THE ENVIRONMENTALLY SENSITIVE LAND WHICH WILL STILL REMAIN, AND TO ALSO RESCIND THE MISSION VALLEY RPO PERMIT NUMBER 98-0455. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-336: Bankers Hill Town Homes.

Matter of approving, conditionally approving, modifying or denying Community Plan Amendment, Rezone, Site Development Permit and Tentative Map to demolish existing buildings and construct a 19-unit residential units as condominiums (5-stories above underground parking) on a 0.46-acre site in the NP-3 Zone (proposed NP-1) of the Mid-City Communities Planned District within the Uptown Community Planning Area located at 2561 First Avenue. Approval of this project requires an affirmative two-thirds vote by the City Council to override the Airport Land Use Commission (ALUC) determination that the height of the proposed structure is not consistent with the San Diego International Airport Comprehensive Land Use Plan and the City of San Diego Municipal Code Airport Approach Overlay Zone.

(Uptown Community Plan Area. District 2.)

(Continued from the meeting of December 7, 2004, Item 332, at the request of the City Council, for further review.)

NOTE: Hearing open. No testimony taken on 12/07/2004.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions in subitems A, B and D; introduce the ordinance in subitem C; adopt the resolution in subitem E to grant the map; and adopt the resolution in subitem F to grant the permit:

Subitem-A: (R-2005-564) CONTINUED TO TUESDAY, MARCH 15, 2005

Adoption of a Resolution certifying that Mitigated Negative Declaration LDR No. 5606, on file in the office of the City Clerk, 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 the 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 a site development permit, tentative map, rezone, and community plan amendment of the Banker's Hill Townhomes project;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is approved;

That pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment;

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-2005-563) CONTINUED TO TUESDAY, MARCH 15, 2005

Adoption of a Resolution amending the Uptown Community Plan, a copy of which is on file in the office of the City Clerk;

That the Council adopts the amendment to the Progress Guide and General Plan for the City of San Diego to incorporate the above amended plan.

Subitem-C: (O-2005-71) CONTINUED TO TUESDAY, MARCH 15, 2005

Introduction of an Ordinance changing the zoning designation for a property located at 2561 First Avenue, in the Uptown Community Plan Area, in the City of San Diego, California, from the NP-3 Zone into the NP-1 Zone, as defined by San Diego Municipal Code Section 103.1510, and repealing Ordinance No. O-18487 (New Series), adopted April 7, 1998, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

Subitem-D: (R-2005-565) FAILED

Adoption of a Resolution pursuant to California Public Utilities Code section 21676(b) the Council adopts the following findings by a two-thirds vote with respect to said override;

That the City Council overrules the decision of the Airport Land Use Commission and determines that the proposed 60 foot, 5-story multi-family development project is consistent with the purposes stated in California Public Utilities Code section 21670.

Subitem-E: (R-2005-) CONTINUED TO TUESDAY, MARCH 15, 2005

Adoption of a Resolution granting or denying Tentative Map No. 10144, with appropriate findings to support Council action.

Subitem-F: (R-2005-) CONTINUED TO TUESDAY, MARCH 15, 2005

Adoption of a Resolution granting or denying Site Development Permit No. 10143, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on April 8, 2004, voted 7-0 to approve; was opposition.

Ayes: Garcia, Chase, Lettieri, Schultz, Ontai, Steele, Otsuji

The Uptown Planners Community Planning Group had recommended approval of this project.

CITY MANAGER SUPPORTING INFORMATION:

The 0.46-acre project site is located at 2561 First Avenue between Laurel Street and Maple Street within the Uptown Community Plan Area. The property is currently designated for office and medium density residential development. The site is in the Mid-City Communities Planned District and is currently zoned NP-3. The application is requesting a General and Community Plan Amendment, Rezone, Site Development Permit and Tentative Map in order to develop the site with a five-story, 19-unit residential project. The project is deviating from the 40-foot height limit of the Airport Approach Overlay Zone. On July 8, 2004, the Airport Land Use Commission determined the project is “not consistent” with the Airport Land Use Plan. On July 20, 2004 the Federal Aviation Administration (FAA) conducted an aeronautical study that concluded the project would not be a “Hazard to air navigation” and further determined that no additional lighting or making was required.

The Airport Authority determined not to appeal the FAA determination of no hazard to air navigation to the FAA National Headquarters Air Traffic Administrator. On August 12, 2004, the Planning Commission unanimously approved a motion recommending the City Council approve the proposed project including the encroachment into the airport approach buffer. Development Services has provided the City Council with findings that required a two-thirds vote to override the Airport Land Use Commission determination and approve the project. Staff has concluded that the proposed 60-foot tall structure complies with the height limit in the underlying zone and is consistent with existing development in the immediate proximity. Several existing buildings ranging between 5 and 12-stories are located in the vicinity many of which are closer to the airport approach path. In general, the override findings conclude that the proposed development complies with the purpose and intent of all the applicable land use plans, policies and regulations for development in this location and meets the purpose and intent of the California Public Utilities Code Section 21670, in that the proposed development would not impact the orderly development of the San Diego International Airport, nor would the proposed development constitute any hazard to the airport operations, the public using the airport facilities or the area in the vicinity of the airport where the development would be located. Therefore, staff believes the findings to override the Airport Land Use Commission and approve the project can be affirmed.

FISCAL IMPACT:

All of the costs associated with processing this application are paid for by the applicant.

Loveland/Halbert/JPH

LEGAL DESCRIPTION:

The project site is located at 2561 First Avenue in the Uptown Community Planning Area and is more particularly described as Lots A, B, C, and D in Block 287 of Horton’s Addition.

FILE LOCATION: SUBITEMS A, B, C, D, E, & F: LUP-Banker Hill Town
Homes 12/07/04 (65)

COUNCIL ACTION: (Time duration: 4:01 p.m. – 5:40 p.m.)

Testimony in opposition by Leo Wilson, Paul de la Housseye, Vincent Bartolotta, and Mike Kulis.

Testimony in favor David Hawkins and Paul Goldfarb.

MOTION BY ZUCCHET TO ADOPT SUBITEM D. Second by Peters. Failed.
Yeas-1, 2, 7, 8. Nays-3, 4, 5, 6, M.

MOTION BY ZUCCHET TO CONTINUE SUBITEMS A, B, C, E, AND F TO
TUESDAY, MARCH 15, 2005, TO GIVE THE DEVELOPER AN OPPORTUNITY TO
REDESIGN THE PROJECT TO MEET AIRPORT OVERLAY ZONE
REQUIREMENTS AND DIRECT THE APPLICANT TO WORK WITH THE
COMMUNITY PLANNING GROUP. Second by Frye. Passed by the following vote:
Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,
Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-337: Proposed Amendments to the City's Land Development Code and Local Coastal Program.

Matter of considering approval, modification, or denial of a proposal to amend the City's Land Development Code to clarify that the definition of "Applicant" (Land Development Code Section 113.0103) and "Application Process" (Land Development Code Section 112.0102) includes any project proposal with a City Council/Redevelopment Agency approved and executed Disposition and Development Agreement (DDA).

The proposed action will also require approval of an amendment to the City of San Diego's Local Coastal Program. Final approval of the proposed Land Development Code Amendment is subject to certification by the California State Coastal Commission. As such, the amendment does not become effective within the City's recognized coastal zone boundaries until final certification by the Coastal Commission has occurred.

(See City Manager Report CMR-05-011. City-wide.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2005-83) CONTINUED TO TUESDAY, FEBRUARY 1, 2005

Introduction of an Ordinance amending Chapter 11, Article 2 and Chapter 11, Article 3 of the San Diego Municipal Code by amending Division 1, Section 112.0102 and 113.0103.

OTHER RECOMMENDATIONS:

Planning Commission on December 16, 2004, voted 6-0 to recommend approval; no opposition.

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

This is a matter of City-wide effect. Community Planning Groups have been notified of this item and have not taken a position.

CITY MANAGER SUPPORTING INFORMATION:

Background

Under the City's existing Land Development Code (LDC), an applicant cannot "begin" (i.e. submit application for) the permit entitlement process with the Development Services Department until they can demonstrate they have "a legal right, interest, or entitlement" to all parcels/properties inclusive of a proposed development plan (LDC §113.0103). As this definition is currently worded, it is unclear whether a proposed redevelopment project proposal with an approved/executed Disposition and Development Agreement (DDA) would meet the requirements of the LDC. As a result, several redevelopment projects (including affordable housing projects) are facing extreme delays, because staff does not have clear authority to start reviewing the projects for their entitlements.

Given the preceding circumstances, an amendment to the LDC is proposed to clarify the definition "Applicant," thereby allowing redevelopment projects to begin the entitlement review process, as long as the Agency has approved and executed a DDA for the project. The amendment would not change any of the requirements for the approval of entitlements—projects would still need to come before the Hearing Officer, Planning Commission and/or City Council for approval, as currently required.

FISCAL IMPACT:

No direct fiscal impact on the City. However, it is anticipated that the proposed amendments to the Land Development Code could result in significant cost savings for redevelopment projects by providing faster schedules and more predictability in project submittal and permit entitlement processing. Additionally, these cost savings could lead to reductions in the need for public subsidies on some redevelopment projects.

Herring/Cunningham/KS

NOTE: The proposed amendment to the Land Development Code does not constitute a “project” and is therefore exempt from the California Environmental Quality Act pursuant to section 15060(c)(3) of the State CEQA Guidelines.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 6:28 p.m. – 6:35 p.m.)

MOTION BY FRYE TO CONTINUE TO TUESDAY, FEBRUARY 1, 2005, FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-338: Two actions related to Multifamily Revenue Bonds for Sycamore Estates Apartments.

(See memorandum from Peter Armstrong dated 01/04/2005 and San Diego Housing Commission Report HCR04-98. District 7.)

SAN DIEGO HOUSING COMMISSION’S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-704) CONTINUED TO TUESDAY, FEBRUARY 15, 2005

Approving the issuance of Bonds by the Housing Authority of the City of San Diego for the Sycamore Estates Apartments Project, pursuant to Section 147(f) of the Internal Revenue Code of 1986.

Subitem-B: (R-2005-721) CONTINUED TO TUESDAY, FEBRUARY 15, 2005

Stating for the record that the information contained in the final Environmental Impact Report LDR No. 99-1094, 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 the issuance of Bonds for Sycamore Estates Apartments project;

Directing the City Clerk 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.

FILE LOCATION: SUBITEMS A & B: NONE

COUNCIL ACTION: (Time duration: 10:09 a.m. – 10:10 a.m.)

MOTION BY MADAFFER TO CONTINUE THIS ITEM TO TUESDAY, FEBRUARY 15, 2005, AT THE REQUEST OF THE CITY ATTORNEY FOR FURTHER REVIEW. Second by Frye. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-339: Olsen Residence.

Matter of the appeal by Joseph F. Marrone of the Planning Commission's decision in certifying the Environmental Determination for an application for a Coastal Development Permit to demolish an existing single-family residence and construct a new, 4,943 square-foot, split level two and three-story detached single-family residence with a 1,820 square-foot basement and attached 616 square-foot garage and to relocate an existing storm drain pipe (currently located below the existing residence) outside of the structure, on a 7,148 square-foot RS-1-7 zoned lot located at 348 Vista de La Playa within the Coastal Overlay Zone (Appealable area), Coastal Height Limit and Beach Parking Impact area within the boundaries of the La Jolla Community Plan.

The decision by the City Council is appealable to the California Coastal Commission. Appeals to the Coastal Commission must be filed with the Coastal Commission at 7575 Metropolitan Drive, Suite 103, San Diego, CA 92108. (Phone: 619-767-2370) Appeals must be filed within 10 working days of the Coastal Commission receiving a Notice of Final Action from the City of San Diego.

(See City Manager Report CMR-05-017. ND No. 6199/Project No. 6199. La Jolla Community Plan Area. District 1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution to deny the appeal, and to affirm the decision of the Planning Commission in adopting Negative Declaration Project No. 6199.

(R-2005-) DENIED APPEAL, ADOPTED AS RESOLUTION R-300079

Adoption of a resolution granting or denying the appeal, and upholding or overturning the decision of the Planning Commission in adopting Negative Declaration LDR No. 6199, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission on November 4, 2004, voted 6-0 to deny the appeal and approve the project with the following additional condition: That the applicant be required to maintain the drain annually at the beginning of the rain season to determine that it is not blocked.

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

The La Jolla Community Planning Association on October 7, 2004, voted 9-3-1 to recommended approval of this project.

CITY MANAGER SUPPORTING INFORMATION:

The proposed project for which Negative Declaration No. 6199 has been prepared and previously Certified by the Hearing Officer on September 8, 2004, and Planning Commission on November 4, 2004, is the demolition of an existing single-family residence and accessory structures and the construction of a new two-story, 4,943 square-foot residence with an attached 616 square-foot two-car garage (including a 1,820 square-foot basement) and the relocation of an existing storm drain. The project site is located at 348 Vista de La Playa on a 7,148 square-foot, RS-1-7 zoned site also located within the Coastal Overlay Zone (appealable area), Coastal Height Limit, Beach Parking Impact area and within the boundaries of the La Jolla Community Plan.

This appeal is before the City Council because of an amendment to the California Environmental Quality Act (CEQA). Effective January 1, 2003, Section 21151(c) CEQA has been amended as follows: *If a non-elected decision-making body of a local lead agency certifies an environmental impact report, approves a negative declaration or a mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision-making body, if any.*

Pursuant to this amended legislation, Mr. Joseph F. Marrone filed an appeal of the Hearing Officer's adoption of Negative Declaration for the Olsen Residence project. This appeal applies only to the environmental determination.

The applicable portion of the appeal filed states, "Planning Commission's finding that no environmental impact exists is not supported by the facts. The appellants state that expert opinions were presented that there was an environmental impact satisfying CEQA's burden that only a 'fair argument' must exist to trigger an Environmental Impact Report." Section 21080(e) of CEQA states that, ". . . substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact. Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative . . ."

FISCAL IMPACT:

All costs associated with processing of this project are paid from a deposit account maintained by the applicant.

Loveland/Halbert/RMK

LEGAL DESCRIPTION:

The proposed project is located at 348 Vista De La Playa, on the north side of Vista De La Playa, west of Monte Vista Avenue, within the Coastal Zone and the La Jolla Community Planning Area and is more particularly described as Lot 1, Fern Glen Colony, Map 2347.

FILE LOCATION: LUP-Olsen Residence, 1/25/05 (65)

COUNCIL ACTION: (Time duration: 2:48 p.m. – 3:48 p.m.)

Testimony in opposition by S. Wayne Rosenbaum.

Testimony in favor by Matt Peterson, Antony Christensen, Bill Olsen, Wanda Tang, George Dewhurst, Marie Lia, Maureen Shaner, and Vic Shaner.

MOTION BY PETERS TO DENY THE APPEAL AND AFFIRM THE DECISION OF THE PLANNING COMMISSION WITH THE CONDITION THAT THE OWNER SHALL MAINTAIN THE DRAIN. Second by Young. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S402: Fashion Valley Road Emergency Repair at the San Diego River Crossing.

(Mission Valley Community Area. District 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-753) ADOPTED AS RESOLUTION R-300078

Declaring that the failure of Fashion Valley Road constitutes an emergency within the meaning of Charter Section 94 and that the public interest or necessity demands the immediate expenditure of money, without advertising for bids or receiving the same, to enter into a contract to repair Fashion Valley Road;

Authorizing an increase of \$1,200,000 in the Fiscal Year 2005 Capital Improvements Program Budget in CIP-13-005.0, Emergency Drainage Projects, Fund 30307, Assembly Bill – 2928;

Authorizing the City Manager to award an emergency contract to repair Fashion Valley Road, conditioned upon the City Auditor and Comptroller first furnishing a certificate that funds are available;

Authorizing the City Auditor and Comptroller to appropriate and expend \$1,200,000 from CIP-13-005.0, Emergency Drainage Projects, Fund 30307, Assembly Bill – 2928, for the purpose of emergency repair for the Fashion Valley Road;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

Fashion Valley Road at the San Diego River crossing is a 4-lane road located in the Mission Valley area between Friars Road and Hotel Circle North. Traffic from the road leads into the Fashion Valley Mall, Town and Country Convention Center, San Diego Trolley Station, Bus Transit Center, and other commercial and residential areas.

The road failed on December 30, 2004 and has been closed to traffic since then. The road collapsed due to the failure of the existing six (6) corrugated metal pipes (CMP) underneath the road. The CMP pipes were installed in 1969 and extended in 1978 when repairs were made after the 1978 storm season. The purpose of the pipes is to carry the normal low flow in the San Diego River. The road is located in the floodplain zone and therefore, it is subject to inundation during heavy flows in the river as a result of high intensity rainfall.

The proposed repair work will include the removal of the existing corrugated metal pipes, their replacement with reinforced concrete pipes (RCP), and restoration of the roadway. To accomplish this, staff has prepared design drawings and will convene a meeting on site with contractors to submit bids for this-work. The exact cost will be determined based on the bids received. Staff estimates for this work is at about \$1,200,000. Staff is looking into ways to expedite the construction, but estimate it will take about three months. This time frame includes six (6) weeks lead time to manufacture the (RCP) pipe. The rain and flows in the river will also have an impact on the construction schedule.

FISCAL IMPACT:

The estimated cost of this project is \$1,200,000. Funding is available in CIP-13-005.0, Emergency Drainage Projects, Fund 30307, Assembly Bill - 2928. This work will be completed under Job Order 130068. This action does not impact funding of existing projects.

Mendes/Boekamp/DZ

Aud. Cert. 2500662.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:57 p.m. – 6:09 p.m.)

MOTION BY FRYE TO ADOPT WITH THE DIRECTION TO OPEN UP A DIRECT DIALOG WITH THE REGIONAL WATER QUALITY CONTROL BOARD. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.



ITEM-S500: Two actions related to Payment of the Fiscal Year 2005 Retiree Health Care Balance.

(See City Manager Report No. CMR-05-023.)

CITY MANAGER’S RECOMMENDATION:

Today’s action is the first public hearing of the ordinance in Subitem A, and adoption of the resolution in Subitem B:

Subitem-A: (O-2005-86) FIRST PUBLIC HEARING APPROVED, TO BE INTRODUCED AND ADOPTED ON TUESDAY, FEBRUARY 1, 2005

Amending Ordinance No. O-19301 (new series), as amended, entitled “An Ordinance Adopting the Annual Budget for the Fiscal Year 2004-2005 and Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year,” by increasing General Fund appropriations in an amount not to exceed \$4.1 million of surplus General Fund revenue and increasing Non-General Fund department appropriations in an amount not to exceed \$2.4 million to fund the unfunded portion of the Fiscal Year 2005 retiree health care liability.

NOTE: Today’s action is the first public hearing of the Ordinance, pursuant to the San Diego City Charter Sections 16, 17, and 71.

Subitem-B: (R-2005-760) CONTINUED TO TUESDAY, FEBRUARY 1, 2005

Authorizing the City Auditor and Comptroller to: (i) increase General Fund appropriations from fund balances or reserves in an amount not to exceed \$4.1 million of surplus General Fund revenue and increase Non-General Fund department appropriations from projected sales tax revenues in excess of estimates in an amount not to exceed \$2.4 million to fund the unfunded portion of the Fiscal Year 2005 retiree health care liability; and (ii) transfer an amount not to exceed \$6.5 million from contributing funds to the Retirement Fund (as set forth in Attachment A to this Resolution) for the purpose of providing funds to cover retirement health care expenditures in excess of available amounts in the 401(h) account, as described in City Manager Report No. 05-023;

Authorizing the expenditure of an amount not to exceed \$6.5 million from the Retirement Fund, for the purpose of providing funds to cover retirement health care expenditures.

CITY MANAGER SUPPORTING INFORMATION:

In City Manager's Report 04-218, dated September 30, 2004, the City Manager discussed support for the recommendation of the Pension Reform Committee that retiree health care benefits no longer be funded in a manner that reduces assets of the retirement fund. Based upon current projections of monthly health care insurance premiums, the cost of retiree health care will be \$14.4 million in Fiscal Year 2005. The balance remaining in the 401(h) health care trust fund is approximately \$7.9 million, which will be exhausted mid-January 2005, leaving an estimated \$6.5 million to be covered by other sources for retiree health care costs. It is the City Manager's recommendation that this amount be paid by City departments proportionally based upon employee counts.

Irvine/Vattimo/Villa

Aud. Cert. 2500674.

FILE LOCATION: SUBITEMS A & B: NONE

COUNCIL ACTION: (Time duration: 6:09 p.m. – 6:28 p.m.)

MOTION BY MADAFFER TO APPROVE THE FIRST PUBLIC HEARING IN SUBITEM A AND CONTINUE SUBITEM B TO TUESDAY, FEBRUARY 1, 2005, FOR FURTHER REVIEW. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

