

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, SEPTEMBER 25, 2006
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Table of Contents

CHRONOLOGY OF THE MEETING.....	2
ATTENDANCE DURING THE MEETING	2
ITEM-1: ROLL CALL.....	3
ITEM-10: INVOCATION	3
ITEM-20: PLEDGE OF ALLEGIANCE.....	3
CLOSED SESSION ITEMS	4
ITEM-200: Step VI Grievance from Police Officers Association Regarding Annual Leave Cap	6
ITEM-201: Amendment to San Diego Medical Services Enterprise (SDMSE) Contract Regarding Profit Distributions.....	7
ITEM-202: Armstrong Residence.....	7
REPORT OUT OF CLOSED SESSION	11
NON-DOCKET ITEMS	11
ADJOURNMENT.....	12

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:01 p.m. Council Member Madaffer congratulated Trevor Hoffman of the San Diego Padres for being the All-Time Saves Leader. Council President Peters recessed the meeting at 2:29 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 2:30 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 3:20 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
 - (2) Council Member Faulconer-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 Hueso-present
- Clerk-Maland (je)

FILE LOCATION: MINUTES



ITEM-1:

ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-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 Hueso-not present

FILE LOCATION: MINUTES



ITEM-10:

INVOCATION

Invocation was given by Reverend Curt Fuller of University United Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Madaffer.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

**CS-1 *County of San Diego v. Redevelopment Agency of the City of San Diego, et al.*
San Diego Superior Court Case No. GIC 850259**

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 26, 2006

DCA assigned: G. Spitzer

This litigation regards the validity of City Council's adoption of the Grantville Redevelopment Plan, Ordinance No. O-19380. In closed session the City Attorney will provide a status of the litigation pursuant to the City Council's request.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:30 p.m.)

Council President Peters closed the hearing.

**CS-2 *Michael Shames v. City of San Diego*
San Diego Superior Court Case No. GIC 831539**

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 26, 2006

DCA assigned: J. Riley

This case involves an alleged over billing of single family sewer customers in violation of the state constitution and a breach by the City of San Diego of loan and grant contracts from the State of California and the Federal Government. In closed session the City Attorney will update the Mayor and City Council on the matter and seek direction.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:30 p.m.)

Council President Peters closed the hearing.

**CS-3 *Carmen Dumais v. City of San Diego*
San Diego Superior Court, Case No. GIC 854051**

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 26, 2006

DCA assigned: M. Herrin

This matter involves a dangerous condition of public property case resulting from injuries allegedly sustained at the San Vicente Reservoir. The City Attorney requests that the City Council consider a possible settlement of the case in closed session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:30 p.m.)

Council President Peters closed the hearing.

Conference with Labor Negotiator, pursuant to Government Code section 54957.6:

CS-4 Agency negotiator: Scott Chadwick, J. Rod Betts, Lisa Briggs, Rich Snapper, Jessica Falk Michelli William Gersten, Joe Harris, Rick Reynolds

Employee organizations: Municipal Employees Association, Local 145 International Association of Firefighters AFL-CIO, San Diego Police Officers Association, Deputy City Attorney Association, AFSCME Local 127

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 26, 2006

DCA assigned: W. Gersten

Discuss with Council the negotiations with all five labor unions (Municipal Employees Association, AFSCME Local 127, Police Officers Association, International Association of Firefighters Local 145, and the Deputy City Attorney's Association) regarding the implementing ordinances for the Mayor's Ballot proposals that would allow for the managed competition of certain City services and also require voter approval for enhancements to employee pension benefits.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:30 p.m.)

Council President Peters closed the hearing.



ITEM-200: Step VI Grievance from Police Officers Association Regarding Annual Leave Cap.

(See Report to the City Council No. 06-122.)

(Continued from the meeting of September 11, 2006, Item 200, at the request of Councilmember Madaffer, to allow City Attorney to provide a legal opinion regarding this item.)

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2007-350) ADOPTED MAYOR'S RECOMMENDATION, AS
RESOLUTION R-301924

Hear the grievance and determine the outcome;

Directing the City Attorney to prepare the appropriate resolutions in accordance with Charter Section 40.

Staff: Scott Chadwick - (619) 236-6313

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:05 p.m. – 2:29 p.m.)

MOTION BY MADAFFER TO ADOPT THE MAYOR'S RECOMMENDATION.
Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



[ITEM-201:](#) Amendment to San Diego Medical Services Enterprise (SDMSE) Contract Regarding Profit Distributions.

(See Report to the City Council No. 06-131.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-258 Cor. Copy) RETURNED TO THE MAYOR

Approving the recommendation of Staff regarding the amendment to the Operating Agreement;

Authorizing the Mayor, for and on behalf of the City of San Diego, to amend the Operating Agreement to change the profit distribution of SDMSE.

Staff: Jill Olen - (619) 236-7169
Brant C. Will - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:05 p.m. – 2:05 p.m.)

RETURNED TO THE MAYOR BY COMMON CONSENT. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



[ITEM-202:](#) Armstrong Residence.

Matter of the appeal by the La Jolla Community Planning Association of the environmental determination associated with a Coastal Development Permit application for the construction of a two-story, 2,883 square-foot single family residence, with an attached 483 square foot, two-car garage on an existing vacant 7,812 square foot lot, located at 5746 La Jolla Mesa Drive in the RS-1-5, Coastal Overlay (non-appealable), and Coastal Height Limit Overlay Zones within the La Jolla Community Plan Area.

(La Jolla Community Plan Area. District 1.)

(Continued from the meeting of August 1, 2006, Item 331 and September 18, 2006, Item 201, last continued at the request of Councilmember Hueso for further review.)

NOTE: Hearing open. No public testimony taken on August 1, 2006. Hearing open. No public testimony taken on September 18, 2006.

STAFF'S RECOMMENDATION:

Take the following actions:

(R-2007-427) GRANTED APPEAL, DENIED NEGATIVE
DECLARATION, ADOPTED AS RESOLUTION
R-301925

Denying the appeal and Certifying Negative Declaration No. 3511.

Directing the City Attorney to prepare the appropriate resolution according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on March 16, 2006, voted 5-0 to deny; was opposition.

Ayes: Schultz, Garcia, Griswold, Ontai, Otsuji
Abstaining: Chase, Steele

The La Jolla Community Planning Association has recommended denial of this project.

STAFF SUPPORTING INFORMATION:

On March 16, 2006, Planning Commission denied an appeal of the CDP and approved the project with a vote of 5-0. On March 29, 2006, the La Jolla Community Planning Association appealed the Negative Declaration. Certification of Negative Declaration No. 3511 would complete the process for the project since the Planning Commission's action on March 16, 2006

has approved the Coastal Development Permit. The City Council could choose to not certify the Negative Declaration and request that the City prepare a Mitigated Negative Declaration or Environmental Impact Report. The City Council is acting on the environmental determination only and not on the Coastal Development Permit.

PREVIOUS COMMITTEE ACTION

Planning Commission Decision: On March 16, 2006, the Planning Commission voted 5-0 to deny the appeal of the project and approve the Coastal Development Permit.

Basis for Appeal: The environmental concerns listed by the appellant include aesthetics/neighborhood character, biology, geology/soils and land use as outlined within the Initial Study Checklist of the Negative Declaration.

Staff Response:

Aesthetics/Neighborhood Character: The project design will have a one-story appearance from the street, with the house stepping down the site similar in design to surrounding residences and would not impact the existing pine trees adjacent to the proposed residence. Proposed grading would consist of approximately 535 cubic yards of cut. The amount of grading proposed is below the threshold of CEQA significance. A Notice of Geotechnical Conditions was recorded on the land to hold the city harmless from potential damages resulting from the existing slope instability (Attachment 1). The geotechnical consultant has opined that the site can be built in a geologically safe and stable manner. The site does have a grade differential in excess of 25% gradient and therefore was evaluated under the Environmentally Sensitive Lands, Steep Hillside Regulations (Attachment 2). The definitions within the Municipal Code state that Steep Hillside means all lands that have a slope with a natural gradient of 25 percent or greater and a minimum elevation differential of 50 feet, or a natural gradient of 200 percent or greater and a minimum elevation differential of 10 feet (Attachment 3). Based on the soils reported submitted, it was determined that the entire site had been previously disturbed and therefore not subject to the Steep Hillside Regulations.

Biology: The biological survey report prepared for the proposed project indicated that none of the existing trees on the project site contained nests. Therefore, no impacts to nesting birds are anticipated due to the removal of existing on-site trees. The project proposes to retain six existing king palms and two existing eucalyptus trees.

Geology/Soils: The geotechnical consultant has opined that the site can be built in a geologically safe and stable manner. Condition No. 13 was revised at the Planning Commission hearing to require additional geotechnical review during the review of the grading plan including analysis of the impact of the project on slope stability and the adjoining properties. The geotechnical consultant has opined that the existing slope has a factor of safety less than 1.5. A Notice of Geotechnical Conditions was recorded on the land to hold the City harmless from potential damages resulting from the existing slope instability (Attachment 1). However, once the proposed project is constructed, the site would have a factor of greater than 1.5 as stated by the geotechnical consultant within the reports submitted to staff for review. There is additional review required during the review of the grading/building plans for the proposed residence. This additional review will ensure that the proposed residence will not impact adjacent properties and that the site will have a factor of safety greater than 1.5.

Land Use: The 2004 La Jolla Community Plan and Local Coastal Program Land Use Plan states (page 51) that the City shall apply the Environmentally Sensitive Lands regulations to all new development on property in La Jolla having slopes with a natural gradient of 25 percent or greater and a minimum differential of 50 feet. Based on the soils reported submitted and reviewed by staff, it was determined that the entire site had been previously disturbed and therefore not subject to the Steep Hillside Regulations.

FISCAL CONSIDERATIONS:

There is no fiscal impact. The project includes a deposit account paid for by the applicant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On November 3, 2005, the La Jolla Community Planning Association voted 12-0-0 to recommend denial of the project.

KEY STAKEHOLDERS:

David Ferradino, Owner (Attachment 4), Thomas Armstrong Construction Inc., Owner/Applicant and La Jolla Community Planning Association – Phil Merten, Appellant.

Halbert/Waring/LCB

LEGAL DESCRIPTION:

The proposed project is located at 5746 La Jolla Mesa Drive, between Baja Mar and Skylark Drive, within the Coastal Zone and the La Jolla Community Planning Area and is more particularly described as Parcel 1, Parcel Map 3254.

Staff: Laura Black – (619) 446-5112

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:30 p.m. – 3:13 p.m.)

MOTION BY YOUNG TO GRANT THE APPEAL DENYING THE NEGATIVE DECLARATION AND RETURN THE ITEM TO THE PLANNING COMMISSION. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-nay, Atkins-yea, Young-yea, Maienschein-yea, Frye-ineligible, Madaffer-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

Awaiting report from City Attorney's Office.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:02 p.m. – 2:03 p.m.)

NON-DOCKET ITEMS:

None.

