

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, APRIL 23, 2007
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:03 p.m. The meeting was adjourned by Council President Peters at 3:16 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 (sr)

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-present

FILE LOCATION: MINUTES



ITEM-10: INVOCATION

Invocation was given by Lead Minister Arvid Straube of First Unitarian Universalist Church of San Diego.

FILE LOCATION: MINUTES



ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council President Pro Tem Young.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

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

**CS-1 *Coastal Law Enforcement Action Network v. City of San Diego;*
Air California Adventure, LLC;
David Jebb - (Complaint);
City of San Diego v. Air California Adventure, LLC;
Air California Adventure, Inc.;
David Jebb; Maya Jebb - (Cross Complaint)
San Diego Superior Court Case No. GIC 861914**

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 24, 2007

DCA Assigned: M. Dickenson

This matter is a challenge under the California Coastal Act relating to the City's lease of the property known as the Torrey Pines Gliderport. The City Attorney will update the Mayor and City Council on the status of the litigation in Closed Session and communicate a settlement offer.

Council President Peters closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:16 p.m.)

Council President Peters closed the hearing.

**CS-2 *Philip K. Paulson v. City of San Diego, et al.*
United States District Court Case No. 89cv820 GT (POR)**

Steve Trunk and Philip K. Paulson v. City of San Diego, et al.
United States District Court Case No. 06cv1597

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 24, 2007

DCA Assigned: D. Karlin

In 1989, Philip K. Paulson initiated the above-entitled action against the City of San Diego relating to the presence of a Latin memorial cross within the Mt. Soledad Veterans Memorial. In Closed Session, the City Attorney will update the City Council on the litigation's status and discuss a recently filed motion for attorney's fees and costs.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:16 p.m.)

Council President Peters closed the hearing.

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

CS-3 Agency Negotiator: Scott Chadwick, J. Rod Betts, Lisa Briggs, Rich Snapper, Jessica Falk Michelli, William Gersten, and Debora Buljat

Employee Organizations: Local 145 International Association of Firefighters AFL-CIO

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 24, 2007

DCA Assigned: W. Gersten/D. Buljat

Discuss with Council pending impasse proceeding concerning International Association of Firefighters Local 145.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:16 p.m.)

Council President Peters closed the hearing.



ITEM-200: Kroll Remediation Status Report Number 5.

(See Mayor Sander's memorandum dated April 9, 2007.)

MAYOR SANDER'S RECOMMENDATION:

Take the following action:

PRESENTED

Accepting the Kroll Remediation Status Report Number 5.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. - 3:14 p.m.)



ITEM-201: Step VI Grievance from the International Association of Fire Fighters, Local 145 regarding Fire Fighter Steve Choi.

(See Report to the City Council No. 07-064.)

STAFF'S RECOMMENDATION:

Hear the grievance and determine the outcome.

CONTINUED TO MONDAY, MAY 7, 2007

STAFF SUPPORTING INFORMATION:

The International Association of Fire Fighters, Local 145 (Local 145), on behalf of Fire Fighter Steve Choi, has appealed the Step V grievance response prepared by the Labor Relations Office on behalf of the Mayor to the full City Council. Step VI of the Grievance Procedure, Article 25 of the Memorandum of Understanding (MOU) between the City of San Diego and Local 145 provides for this option.

The grievance cites a violation of Article 43 of the MOU and denial of Mr. Choi's due process rights. Following a determination by the City's Emergency Medical Services Medical Director of unsatisfactory skills and judgement during critical clinical circumstances Mr. Choi was reassigned from his fire fighter/paramedic position. Effective December 4, 2004, Mr. Choi stopped receiving paramedic premium pay. The performance issues giving rise to this action are documented in the September 19, 2004 memorandum from Battallion Chief Criss Brainard, Steve Choi Documentation.

As resolution to this grievance, Local 145 is requesting that Mr. Choi be reinstated to the fire fighter/paramedic position he previously occupied and be fully compensated for the loss of paramedic premium pay retroactively to December 4, 2004.

As Mr. Choi was not assigned to a fire fighter/paramedic position, it is staff's view, pursuant to Article 43, that Mr. Choi would be ineligible for retroactive payment of the paramedic premium. Staff is not aware of any employee property right related to position assignments or premium pay. The Fire-Rescue Department is not comfortable with reinstating Mr. Choi to a paramedic position and the City Attorney's office has opined that doing so would expose the City to substantial risk of liability.

FISCAL CONSIDERATIONS:

\$25,368 to retroactively compensate Mr. Choi for the Paramedic Premium for the period from December 4, 2004 through January 26, 2007.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

International Association of Fire Fighters, Local 145 City of San Diego.

Chadwick/Reynolds

Staff: Scott Chadwick - (619) 236-5587

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:05 p.m. - 2:06 p.m.)

MOTION BY MADAFFER TO CONTINUE TO MONDAY, MAY 7, 2007, FOR FURTHER REVIEW. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-202: Pursuant to the San Diego Municipal Code Section 22.0710, the City Auditor and Comptroller's Office is Requesting a Hearing on the City's Comprehensive Annual Financial Report (CAFR) for the Fiscal Year Ending June 30, 2003.

(See Report to the City Council 07-065.)

CITY AUDITOR AND COMPTROLLER'S RECOMMENDATION:

Take the following actions:

CONTINUED TO MONDAY, MAY 7, 2007

Receiving and filing the Fiscal Year 2003 City's Comprehensive Annual Financial Report (CAFR);

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

SUPPORTING INFORMATION:

Consistent with the remedial recommendation contained in the Report of the Audit Committee of the City of San Diego (Kroll Report) dated August 8, 2006, staff has provided numerous drafts of the CAFR to the City Council for their review and comment prior to the April 16, 2007 City Council meeting where this document will be discussed. At this meeting staff is recommending that it be received by the City Council as final. This document has been approved by the City's Disclosure Practices Working Group (DPWG) and the certificate of approval has been attached to this agenda item.

The public may obtain a copy of the City's 2003 CAFR on the City website at no charge.

FISCAL CONSIDERATIONS:

None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
October 16, 2006, Council Meeting.

Levin/Goldstone

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:07 p.m. - 2:16 p.m.)

MOTION BY FAULCONER TO CONTINUE TO MONDAY, MAY 7, 2007, FOR FURTHER REVIEW. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-203: Tucker Self-Storage.

Matter of approving, conditionally approving, modifying or denying an application to Rezone the property from the RS-1-1, IH-2-1 and IP-2-1 zones to the IL-2-1 zone; Public Right-of Way Vacation, and Site Development Permit to construct a 120,183-square foot self storage facility on a 3.35-acre site located at 9765 Clairemont Mesa Boulevard in the Tierrasanta Community Plan area.

(MND/SDP No. 205536//R-O-W No. 231224/RZ No. 231223/Project No. 67993. Tierrasanta Community Plan Area. District 7.)

STAFF'S RECOMMENDATION:

Adopt the resolutions in Subitems A, C, and D; and introduce the ordinance in Subitem B:

Subitem-A: (R-2007-930) CONTINUED TO TUESDAY, MAY 22, 2007

Adoption of a Resolution certifying that Mitigated Negative Declaration No. 67993, 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.), 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 rezone, public right-of-way vacation, and site development permit for the Tucker 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: (O-2007-121) CONTINUED TO TUESDAY, MAY 22, 2007

Introduction of an Ordinance of the Council of the City of San Diego changing 3.35 acres located at 9765 Clairemont Mesa Boulevard, in the Tierrasanta Community Plan Area, in the City of San Diego, California, from the RS-1-1 (Residential-Single Unit), IP-2-1 (Industrial-Park), and IH-2-1 (Industrial-Heavy) Zones into the IL-2-1 (Industrial-Light) Zone, as defined by San Diego Municipal Code Section 131.0603, and repealing Ordinance No. O-16187 (New Series), adopted April 2, 1984, of Ordinances of the City of San Diego insofar as the same conflicts herewith.

Subitem-C: (R-2007-931) CONTINUED TO TUESDAY, MAY 22, 2007

Adoption of a Resolution certifying findings supported by minutes, maps and exhibits, all of which are incorporated herein by this reference with respect to Site Development Permit No. 205536;

That Site Development Permit No. 205536 is granted to the City of San Diego, Owner/Andy Krutzsch, Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

Subitem-D: (R-2007-932) CONTINUED TO TUESDAY, MAY 22, 2007

Adoption of a Resolution certifying that the public right-of-way easement in connection with Site Development Permit No. 205536, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20397-B, marked as Exhibit "B," and on file in the Office of the City Clerk, which are by this reference incorporated herein and made a part hereof, is ordered vacated;

That said street vacation is conditioned upon the recordation of a two parcel, Parcel Map. In the event this condition is not completed within two years following the adoption of this resolution, then this resolution shall become void and be of not further force or effect;

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

OTHER RECOMMENDATIONS:

Planning Commission on February 15, 2007, voted 6-0-1 to recommend approval; was opposition.

Ayes: Naslund, Ontai, Schultz, Garcia, Griswold, Otsuji
(One vacancy)

On August 16, 2006, the Tierrasanta Community Council and Planning Group considered the project and voted 8-8-0. This tie vote resulted in no official action by the community planning group.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of a Rezone, Site Development Permit and Public Right-of-Way Vacation to construct three self storage buildings totaling 120,183-square feet on a 3.35-acre site at 9765 Clairemont Mesa Boulevard in the Tierrasanta Community Plan area.

STAFF RECOMMENDATIONS:

1. CERTIFY Mitigated Negative Declaration No. 67993 and ADOPT the Mitigation, Monitoring and Reporting Program;
2. APPROVE Rezone No. 231223;
3. APPROVE Public Right of Way Vacation No. 231224; and
4. APPROVE Site Development Permit No. 205536.

EXECUTIVE SUMMARY:

The proposed 3.35-acre vacant site is located east of Interstate 15 and south of Clairemont Mesa Boulevard, with military property to the north, commercial uses to the south and open space to the east within the Tierrasanta Community Plan area.

The project entails a 55-year ground lease with the City of San Diego pursuant to the Settlement Agreement in the case of TRP Limited vs. City of San Diego, ET AL, and SCC No. 578191, approved by City Council Resolution No. 274804 on December 4, 1989. The settlement agreement allows Mr. Krutzsch, in exchange for relinquishing any claim of title to the disputed property, to lease the property for a commercial or industrial development.

This self storage project proposes two three-story buildings and one four-story building. Each building includes an office, lobby, and reception area on the first floor. Fifteen parking spaces and two loading spaces will be provided on-site.

The Tierrasanta Community Plan does not designate a specific land use to the site, however, the Industrial Element of the plan states that approximately three developable acres may be added to the existing six-acre, "industrial" designated site to the south of the project site, after the Interstate 15 interchange has been completed and Clairemont Mesa Boulevard has been aligned. Both right-of-way facilities have been completed, therefore, the proposal meets the intent of the Industrial Element of the community plan. In addition to this project's location adjacent to the freeway and existing industrial development, the proposed project would be buffered from multi-family residential development to the east by an existing open space easement. The project also

would incorporate a mix of varying building materials and landscape screening that would serve to break up the bulk and mass of the proposed structures. Faux windows are located along the north elevation of the eastern most structure of the project, closest to Clairemont Mesa Boulevard.

Varying roof lines and staggered setbacks would also be incorporated to further articulate the building façade along Clairemont Mesa Boulevard. Through these project features the objectives of the community plan to protect surrounding uses from visual impacts and visual appearance through aesthetic improvements and urban design will be implemented.

The project requires a rezone from RS-1-1, IH-2-1 and IP-2-1 to the IL-2-1 zone. The IL-2-1 zone allows for light industrial uses. The Public Right-of-Way Vacation is for property which was formerly part of an Interstate 15 off-ramp and is no longer needed for public use. A Site Development Permit is required due to impacts to Environmentally Sensitive Lands. Approximately 2.36-acres of Coastal sage scrub habitat and 0.53-acres of Non-native Grassland will be impacted by the proposed project.

FISCAL CONSIDERATIONS:

This project emanated from a quiet title action in the case of TRP Limited vs. City of San Diego, et al., SCC 578191, filed in 1986 over a dispute between the City of San Diego and Mr. Krutzsch as to the ownership of the subject property. The settlement agreement allows Mr. Krutzsch to ground lease the property for a commercial or industrial development.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

See fiscal considerations statement above.

PLANNING COMMISSION ACTION:

On February 15, 2007, the Planning Commission voted 6-0-1 to approve the project as proposed with the following recommendations: signage is to be located only in the areas and no larger than shown in the applicant's photo simulation; use a more native planting around the retaining walls and overall use native vegetation comparable to the open space.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On August 16, 2006, the Tierrasanta Community Council and Planning Group voted 8:8:0, a tie vote. A tie vote of the planning group results in no official action.

As summarized in their minutes, the project was supported because, it presented the least possible impacts in terms of traffic, noise and light that would exist were any other type of project planned. The false windows, granite facing and roof-top parapet makes the project look more like an office building than a typical self storage facility. Opposition to the project centered on visual impacts, rezoning and the use at the location.

KEY STAKEHOLDERS:

Andy Krutzsch, Applicant

Waring/Escobar-Eck/PG

LEGAL DESCRIPTION:

The site is in the RS-1-1, IP-2-1, IH-2-1 and the Airport Environs Overlay Zones, within the Tierrasanta Community Plan area. The project entails a 55-year ground lease of the property pursuant to the Settlement Agreement in the case of TRP LIMITED vs. CITY OF SAN DIEGO, ET AL, SCC No. 578191, approved by City Council Resolution No. 274804 on December 4, 1989. The project site is more particularly described as Parcel A and B of Lot 2, of Map No. 825.

Staff: Patricia Grabski – (619) 446-5277
Shirley Edwards – Chief Deputy City Attorney

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:06 p.m. - 2:07 p.m.)

Testimony in favor of the continuance by Steve Laub.

MOTION BY MADAFFER TO CONTINUE TO TUESDAY, MAY 22, 2007, FOR FURTHER REVIEW. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-250: **Notice** of Pending Final Map Approval – Chollas Creek Villas.

Notice is hereby given that the City Engineer has reviewed and will approve on the date of this City Council meeting that certain final map entitled “Chollas Creek Villas” (T.M. No. 203245/PTS No. 84490), located on the south side of Castana Street between Haya Street and 49th Street in the Encanto

Neighborhoods, Southeastern Community Plan Area in Council District 4, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- 1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- 2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- 3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this City Council meeting stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the map approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

